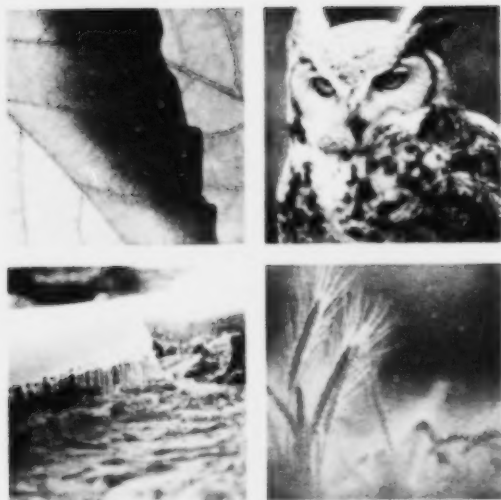


THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION

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EXPERIMENTAL ANIMAL HOUSE

1950-1951

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Note to Readers

In the fall of 2003, the Board changed its name from the Environmental Appeal Board to the Environmental Appeals Board. This change took place to reflect the Board's ability to deal with many different types of appeals, as well as clearly communicate to the public that the Board can combine appeals under the Environmental Protection and Enhancement Act and the Water Act. The ability to combine appeals will not only increase efficiency and effectiveness, but decrease costs the Board may incur.

Message from the Chair



I am pleased to present the 2003/2004 Annual Report of the Environmental Appeals Board. During the current reporting period, the Board has experienced many new challenges, and continues to grow and establish new and improved ways to conduct its business.

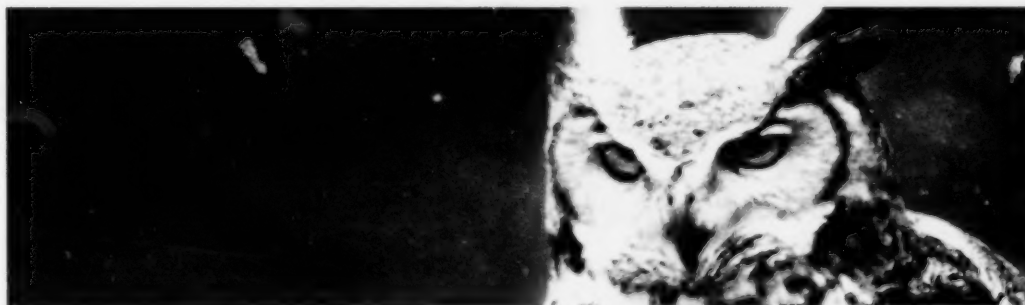
Over the years, the Board has seen a steady increase in the number of appeals filed. From April 1, 2003 to March 31, 2004, the Board received 158 appeals, a slight increase from 2002/03 at 152.

The Board also continues to be mindful of significant pressures on Alberta's water resources in conducting its business. The Board has witnessed a steady increase in appeals relating to Water Act Approvals, specifically from 108 in 2002/03 to 133 in 2003/04. The Board is attentive in issuing decisions that are fair and balanced, and are in line with the long-term challenges and the need for sustainability of Alberta's water resources.

The Board is especially excited about the implementation of a new and advanced visual presentation system for its hearing room. The addition of automatic gallery screens, monitors for Board Members and advanced overhead and LCD equipment will increase the efficiency and convenience for those who appear before the Board.

The Board also upgraded its electrical circuit system in its hearing room, which will allow for a smooth transition in implementing new technology in the future.

Lastly, September 2003 marked the 10 year anniversary of the Environmental Appeals Board and what an amazing time it has been. Serving as Chair of the Board for the first ten years of its existence has been the highlight of my legal career and a time of great personal growth.

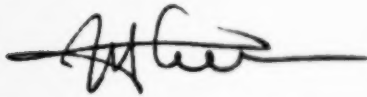


I want to thank all of the people who have made my time with the Board so enjoyable. First and foremost, I want to thank my wife Sandra, and my children, Stephanie, Bill, Christine, and Benn. You are a blessing to me and have supported me immensely through my Environmental Appeals Board experience. Thank you to the Board Members who have served throughout the years and

continue to serve. They are a group of individuals at the top of their field who have exercised incredible skill, expertise and sound judgment. I also want to thank the Board's staff for their hard work and for keeping the Board running smoothly. They are a wonderful team, fully dedicated and committed to going the extra mile in serving Albertans.

The Government of Alberta and all of the various Ministers that I have had the pleasure of working with over the years have also offered a great amount of support to the Board and me. From Premier Klein, Honourable Brian Evans, Honourable Ty Lund, Honourable Gary Mar, and the Honourable Halvar Johnson, each provided support and encouragement to the Board. Current Minister of Alberta Environment, Honourable Dr. Lorne Taylor has been a great advocate of the environment and continues to provide us with strong leadership. This Board has been treated exceptionally well without jeopardizing the arms-length relationship required by law.

I repeat my gratitude to the Premier and Cabinet for their support of the Board. With the conclusion of my last term as Chair, I wish my successor and the Board every success for I know they will do well.



William A. Tilleman, J.S.D., Q.C.

Vision Statement



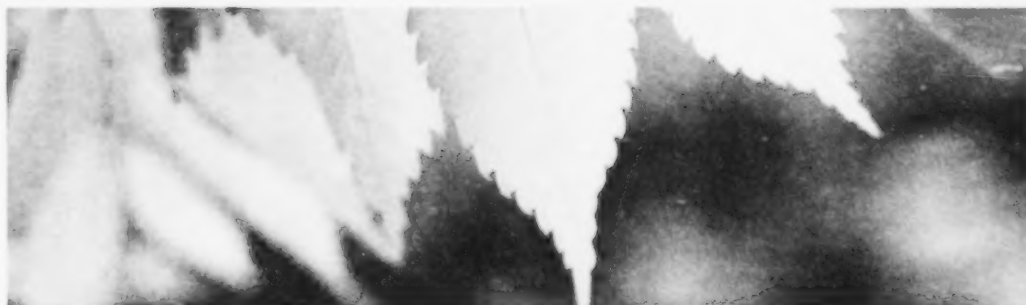
The Environmental Appeals Board's vision is to promote a high quality of life in Alberta through the timely and thorough review of environmental decisions.

Albertans value their environment for the ecological, economic and social benefits it provides. They expect their water to be safe, their air to be clean, their land to be productive, and careful decisions to be made about the protection and management of the environment for generations to come. Alberta businesses expect to be treated fairly and have their matters, involving their applications or appeals heard quickly. The Environmental Appeals Board is committed to ensuring businesses and citizens have the opportunity to provide advice respecting environmental decisions recognizing the shared responsibilities of all Albertans for the environment.

Mission Statement

The Environmental Appeals Board will advance the protection, enhancement and wise use of Alberta's environment by providing fair, impartial, and efficient resolution of all matters before it.

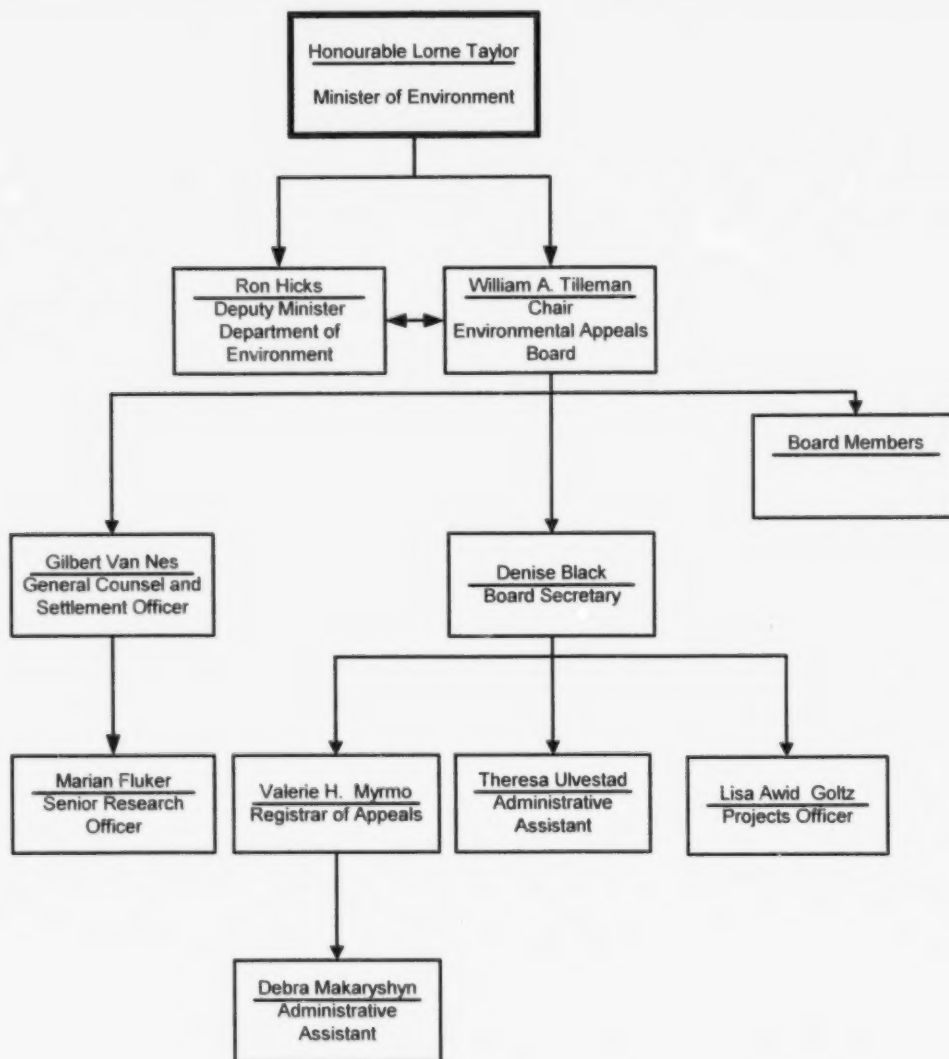
Board's Structure and Organization



The Board is placed in a unique position in relation to the Department of Environment and the Ministry of Environment. The Board is under the umbrella of the Ministry and reviews and hears appeals regarding decisions made by Directors within the Department of Environment. Being an adjudicative body, the Board operates at arms-length from the government to maintain a necessary degree of independence and impartiality. However, for budgetary reasons and for the purposes of providing the Minister with its decisions and reports once they are completed, and notwithstanding the Board's effort to balance environmental and economic interests, the Board remains aligned with the operations and goals of the Ministry of Environment.

The Board consists of two distinct, yet very interconnected entities: Board Members and Board staff. Cabinet appoints Board Members while the Government of Alberta, under direction of the Chairman, employs Board staff. Collectively, Board Members offer a variety of expertise and knowledge in environmental matters. Their decisions on all appeal matters before them are based on impartial, unbiased, and based on independent judgment. Board staff, employed by the government, embraces the fiscal, environmental, and human resource goals of the government but concurrently remain focused on supporting the objectives and goals of the Board and its operations. Further, Board staff are dedicated to the operating principles of the Board and its mission.

ENVIRONMENTAL APPEALS BOARD ORGANIZATION CHART



Board's Core Value

In conducting its business, the Board is guided by its belief in:

E C O S Y S T E M S U S T A I N A B I L I T Y

Consistent with the legislation, the Board believes that a healthy environment is essential to the integrity of ecosystems and human health and to the well being of society.

S U S T A I N A B L E D E V E L O P M E N T

The Board hears and processes appeals in a fair and effective manner striving to ensure the wise use of Alberta's renewable resources with the goal that future generations may benefit from them.

I N F O R M E D D E C I S I O N - M A K I N G

The Board attempts to hear and process appeals on the basis of relevant scientific, technological, and environmental information so that it may make fully informed decisions.

P U B L I C I N V O L V E M E N T

The Board ensures information on its mandate and rules and regulations are freely accessible. The Board provides Albertans with the opportunity to become active participants in appeals and hearings through creative processes such as mediation.

S H A R E D R E S P O N S I B I L I T Y

The Board shares the responsibility of managing Alberta's renewable resources by providing Albertans the opportunity to have a voice through appeal procedures.

P U B L I C S E R V I C E

The Board is dedicated to providing excellent service to Albertans in all regions of the province.

Board's Core Business

The Board's core business is to hear appeals from applicants and affected parties on decisions regarding environmental approvals, enforcement actions, reclamation certificates, and other matters. The goals of the Board are linked to the core business and goals of the Ministry of Environment and the core business of the Alberta Government being people, prosperity, and preservation.

Social (people), economic (prosperity), and environmental (preservation) effects of major resource development are scrutinized through the Board's review process to ensure that Alberta's renewable

resources are sustained, the high quality of Alberta's environment is maintained, and resource development contributes to prosperity.

The Board continues to work to find effective ways of reducing its expenditures while maintaining quality services. We continue to look for ways to conduct our business more efficiently and effectively.

The Board is committed to contributing to the sustainable development of Alberta's natural resources for the benefit of Albertans today and in the future.



Summary of Results of Board's Business

The Board went through a transition period in 2003/04. In previous years, the Board prepared and submitted its annual reports and business plans to the Minister of Environment for information purposes only. On September 26, 2003, the Board established a Memorandum of Understanding with the Minister of Environment to produce the Board's business plan by March 31 and the Board's annual report by June 30 of each year.

As a result, the Board submitted its Business Plan for 2004-2007 to the Minister on March 31, 2004, and will be reporting on those goals in its 2004/05 Annual Report.

For the current reporting period of April 1, 2003 to March 31, 2004, the Board will report on the results of the Board's Performance Plan for the period of April 1, 2003 to March 31, 2004, as directed by Executive Council.

Goal 1 : Achievement of Fiscal Goals

Strategy: The Board will take all reasonable steps to control expenditures; however, the Board has no control over external factors such as the number of appeals filed, location and complexity of issues.

Targets Met:

1. Promote fiscally responsible spending practices. (Yes)
2. Review Board's business plans to take into account government and ministry's business plans. (Yes)
3. Process and conduct appeals in the most cost effective manner without compromising natural justice and fairness. (Yes)

Results:

In order to reduce the cost of processing appeals, and without compromising natural justice, the Board considers addressing appeals via written submission; locates an appropriate venue; uses one Board member on a panel where appropriate; and holds conference calls among panel members versus in-person meetings.

The Board not only met its budget target for 2003/04, but also maintained a surplus of almost \$10,000. This is quite an accomplishment considering the Board has experienced a steady increase in the number of appeals it processes. In this reporting period, 158 appeals were filed, compared to the Board's average of approximately 100 appeals filed per year. The Board has also been faced with significantly complex issues in the appeals it hears, dealing with topics of water allocation, Aboriginal, and public interest standing issues.

Meeting our financial target is significant also considering the implementation of a new visual presentation system and electrical upgrades to the Board's hearing room.

As a cost saving measure, the board processes appeals through a written process where appropriate. From April 1, 2003 to March 31, 2004, the Board held 6 written preliminary motion hearings and appeal hearings in relation to 10 appeals, and conducted 7 oral preliminary motion hearings and appeal hearings in relation to 73 appeals. The Board is continuously mindful to combine appeals where appropriate to increase efficiency.

The Board continues to resolve appeals through alternative dispute resolution such as mediation. From April 1, 2003 to March 31, 2004, the Board held 14 mediations in relation to 26 appeals. Of the 14 mediations held, 11 were successful, 1 was unsuccessful and proceeded to an appeal hearing, and 2 mediations are currently on going.

Future Focus:

The Board continues to promote fiscally responsible practices in processing its appeals.

Goal 2: Achievement of Business Plan Goals

Strategy: The Board will operate in a manner that promotes the efficient resolution of appeals by adopting policies and procedures consistent with the principles of fairness and natural justice while maintaining integrity in all Board processes and ensuring that all parties to an appeal are treated with fairness and respect. Methods will be used (such as alternative dispute resolution) to promote the efficient and timely resolution of appeals without compromising fairness. The Board contributes to Environmental Core Business by supporting the Ministry Initiatives related to Environmental Assurance.

Targets Met:

1. >70% of appeals sent to mediation are resolved. (Yes)
2. Prepare decisions, exempted from legislated timeframes, in a timely manner >80% of Decisions completed within 3 months of last submission received. (Yes)
3. Prepare decisions and Reports, with legislative timeframes in a timely manner <5% of Decisions and Reports require a request for time extension. (Yes)
4. Allow for creativity in resolving appeals while ensuring the interests of all parties have been met in a fair manner:
 - combine appeals where appropriate. (Yes)
 - assist parties in forming their own agreements. (Yes)
5. Monitor judicial reviews pertaining to Board decisions (Yes)

Results:

From April 1, 2003 to March 31, 2004, the Board held 14 mediations in relation to 26 appeals. The Board's measure was not only met, but exceeded in that 78% of appeals sent to mediation were resolved.

From April 1, 2003 to March 31, 2004, 33 Decisions with no legislative timeframes were issued, all within 3 months of the last submission being received. These 33 Decisions related to 95 appeals.

The Board met its target by not requesting any extensions for producing Decisions and Reports within the legislated timeframes.

By employing creative and efficient means to resolve appeals, the Board held 14 mediations in relation to 26 appeals, 6 written preliminary motion hearings and appeal hearings in relation to 10 appeals, and 7 oral preliminary motion hearings and appeal hearings in relation to 10 appeals.

All judicial review decisions received during the fiscal year have been reviewed.

Future Focus:

The Board will continue to promote the efficient processing of appeals.

Strategy: The Board will strengthen the strategic direction of the business plan.

Target Met:

Review business plan and modify as appropriate. (Yes)

Results:

As noted above, the Memorandum of Understanding between the Minister of Environment and the Environmental Appeals Board signed on September 26, 2003, modified the Board's reporting procedures relating to administrative matters.

Future Focus:

As outlined in the Board's Business Plan for 2004-2007, many new and more focused areas and strategies have been added. Through the year, the Board will strive to develop new and improved ways to conduct its business.

Strategy: The Board will support the establishment of an internal audit function.

Target:

The Board will provide information as requested.

Results:

The Board fully supports the establishment of an internal audit function. During the current reporting period, the Board did not receive any requests or recommendations pertaining to an internal audit, however, it welcomes any initiatives or recommendations brought forth by the Office of the Auditor General. The Board encourages accountability of its expenditures and strives to assist in increasing the economic and operational functions of the province.

Strategy: The Board will support the Emergency Preparedness Strategy.

Target Met:

Demonstrate contribution by contacting Environment's representative. (Yes)

Results:

The Board contacted Alberta Environment and was advised that no information was required with respect to the Emergency Preparedness Strategy.

Future Focus:

The Board will remain proactive in seeking out opportunities to support strategies that will secure the effective and efficient running of the Board.

Strategy: The Board will support the Business Resumption Strategy.

Targets:

Provide information as requested to Environment's representative. (Yes)

Results:

Board staff met and developed a detailed Business Resumption Plan for the Environmental Appeals Board. This information was submitted to Alberta Environment.

Future Focus:

The Board received comments on its Business Resumption Plan from Alberta Environment, and has implemented these recommendations into its present plan. The Board is strongly aware of the importance of conducting its business if the event of a disaster. The Board will continue to provide information as needed to Alberta Environment, and actively seek ways to improve the efficiency of its plan to ensure resumption is timely and well organized.

Goal 3: Corporate Cross-Ministry Priority Policy Initiatives

Strategy: The Board will support the Corporate Cross-Ministry Priority Policy Initiatives when taking into consideration the legislated requirements of recognizing economic growth, human health and well being of society, and environmental protection.

Targets Met:

The Board will strive to produce the highest quality decisions reflecting the purposes outlined in EPEA and the Water Act which directly address the Corporate Cross-Ministry Priority Policy Initiatives. (Yes)

Any directly affected individual has a right to file an appeal. (Yes)

Results:

Board decisions are specifically written to address the purposes set out in EPEA and the Water Act. The Board is extremely attentive in preparing decisions that create a balance between the protection of our environment, sustain our economy, and address the well-being of our province and society as a whole.

Any directly affected person has the right to file an appeal to the Board subject to its governing legislation.

Future Focus:

In support of the Cross-Ministry Initiative on Aboriginal policy, the Board plans to once again host a conference in October 2004 on interest-based dispute resolution with First Nations as the focus.

The Board acknowledges that a balance between environment and industry will ensure long-term economic prosperity while maintaining a healthy environment for future generations.

Goal 4. Corporate Cross-Ministry Key Administrative Initiatives

Strategy: The Board will develop and maintain memberships in professional and public organizations to promote public awareness and ensure that the Board is up to date with the latest developments that impact its operations. The Board will promote staff and Board member development to meet professional and Board requirements.

Target Metrics:

Continue to participate in provincial, national and international conferences and other training initiatives related to the business of the Board (i.e. adjudicative practice – depending on Board's schedule and funds). (Yes)

Results:

Board members participated in mediation courses through the Alberta Arbitration and Mediation Society, and the Legal Education Society of Alberta. Board Members and some staff participated in courses offered by the Alberta Foundation of Administrative Justice.

The Board's General Counsel successfully completed his assessments in interest-based mediation and negotiation and received his Certificate in Conflict Management. As a result, he offers additional mediation training to Board Members.

The Board's General Counsel and Senior Research Officer are part of the executive law subsection of the Canadian Bar Association. Involvement promotes current knowledge and assists in developing issues in the field of environmental law. Participation also involves contact with other agencies such as the Natural Resources Conservation Board and the Federal Department of Fisheries and Oceans.

Staff are members of the Law Society of Alberta, Alberta Arbitration and Mediation Society, Canadian Land Reclamation Association, Institute of Public Administration of Canada, and Council of Canadian Administrative Tribunals. The Chair is also a member of the International Association of Impact Assessment USA, the Environmental Law Institute USA, and spoke at national Canadian Bar Association conventions.

Strategy: Continue to support the Alberta Corporate Service Centre (ACSC) to the extent natural justice principles allow.

Target Met:

Contact ACSC as required and provide ACSC with information as required. (Yes)

Results:

Board staff continue to provide information to ACSC as required.

Strategy: Support the Service Alberta Initiative by simplifying access to information about the Board to the extent natural justice principles allow.

Target Met:

Update Board information on website – ongoing. (Yes)

Results:

Information on the Board's website is updated on an ongoing basis.

The Board's website contains a link to a staff member where an electronic Notice of Appeal can be requested.

Future Focus:

The Board is researching ways to improve its website to include a new appearance and provide published information in an electronic format.

Strategies: The Board will align itself with the Ministry of Environment's information management technology strategy and the corporate plan.

The Board will employ technology as a means to enhance business performance and achieve cost savings.

Targets Met:

The Board will ensure cost savings and efficiency by complying with the Ministry's basic hardware and software standards. This will be accomplished by consulting with the Ministry's information technology group on an ongoing basis. (Yes)

Review technological advances and assess feasibility of implementing. (Yes)

Results:

Board staff remain in contact with Ministry information technology staff and upgrades have been completed as per Government of Alberta standards.

The Board has rigorously researched various document management systems that are appropriate for the Board's needs and budget.

Goal 5: Corporate Cross-Ministry Key Strategic Initiatives

Strategy: The Board will support the Life Sciences Strategy and Sustainable Development Strategy where appropriate and to the extent the principles of natural justice allow.

Target Met:

Demonstrate awareness or consideration towards these initiatives. (Yes)

Results:

The Board agrees in principle with the cross-ministry initiatives within the confines of the Board's jurisdiction and the principles of natural justice.

The Board's decisions reflect the government's commitment to take on a leadership role in life sciences development. The Board considers the effects its decisions have on the environment and human health, and the steps that can be taken to limit adverse impacts.

Finances



The Board's budget for each fiscal year is discussed with the Deputy Minister of Environment, approved by the Minister of Environment, and then sent to Treasury and Cabinet for approval. In terms of administrative budgeting and future business planning, the Board keeps in close contact with the policy administrators within the Department of Environment. The Board's budget for this fiscal period was \$959,000, and the Board's expenditures during this time were \$949,751.

The rate and number of appeals put before the Board is externally driven; therefore, the appeal activity is beyond the Board's control. Board costs vary depending on the number of appeals filed. However, the Board can anticipate an increase in the complexity and number of appeals when additional acts fall under the jurisdiction of the Board, or when the Department of Environment introduces new rules or regulations. This was demonstrated by the January 1, 1999 inclusion of the Water Act.

Generally, as Alberta's environmental resources become more strained, leading to increasingly stringent environmental standards, and as economic resources become more stretched, the Board anticipates Albertans will demand more from it and the appeal process. The Board will remain committed to meeting the needs of Albertans while concurrently viewing fiscal responsibility as a top priority. Standard business and accounting practices will be used to assess, plan, and monitor the expenditure of the Board's financial resources.

S U M M A R Y O F S P E N D I N G P R O F I L E

	1999-00 Actual	2000-01 Actual	2001-02 Actual	2002-03 Actual	2003-04 Actual
Operating	\$745,226	\$898,502	921,169	1,018,518	959,000
Capital	0	0	0	0	0
Total	\$745,226	\$898,502	921,169	1,018,518	949,751

The workload of the Board is externally driven, and the costs will accordingly vary with the number of appeals that are filed. The generation of appeals is a matter that is beyond the Board's control.



Statistics



A P P E A L S T A T I S T I C S

Number of Appeals

A total of 158 appeals were put before the Board between April 1, 2003 and March 31, 2004. This brings the total number of appeals filed with the Board to 1,165. (See Appendix A for a summary of appeals.)

Time per Appeal

The average time for processing an appeal, as calculated from the total number of appeals over the Board's existence, is 3.22 months per appeal.

Mediation

To date, 120 matters (calculated by Approval Holder, which corresponds to 539 individual appeals) have undergone mediation, of which 100 matters were successfully resolved. This demonstrates an 83 percent rate of success.

Judicial Reviews

Since the inception of the Board there have been 30 instances of judicial reviews stemming from 19 different Notices of Appeal. Of the 30 judicial reviews, 12 have upheld the Board's decision, 7 were returned to the Board, 6 were withdrawn, and 3 are pending. The Board has also recorded 2 judicial reviews which stem from a Ministerial decision based on one of the Board's Reports and Recommendations but did not directly involve the Board as a party.

Report and Recommendations

The Board has submitted a total of 96 Report and Recommendations to the Minister with only 1 of the 96 Report and Recommendations not accepted by the Minister. Of the 96 Report and Recommendations, 7 were submitted to the Minister this year. The Minister accepted all 7 of these Report and Recommendations.

Decision Reports

The Board has issued 167 Decision reports to date. Of the 167 Decision reports, 13 were rendered this year.

Discontinuance of Proceedings

The Board has issued 150 Discontinuance of Proceedings since 1996. Of the 150 Discontinuance of Proceedings, 19 were issued this year.

Costs Decisions

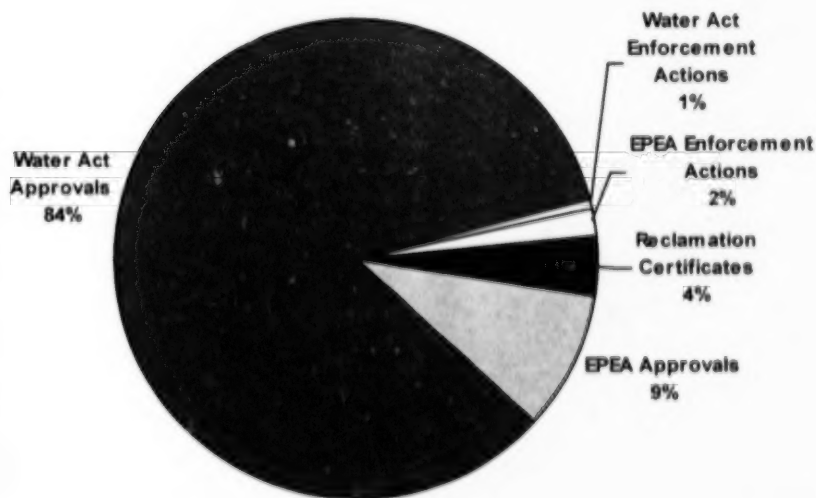
The Board has issued 23 Costs Decisions to date. Of the 23 Costs Decisions, 2 were issued this year.

A P P E A L T Y P E S

During this year the Board received 158 appeals relating to the following issues: 15 pertained to EPEA approvals, 133 applied to Water Act Approvals (including preliminary certificates and licences), 1 was based on an enforcement action under the Water Act, 3 were enforcement actions under EPEA, and 6 were reclamation certificates (as per Chart I). A brief summary of each of the 158 appeals is set out in Appendix A. As well, the breakdown of the parties to each appeal and appeal numbers is included in Appendix B.

CHART I

Types of Appeals 2003-2004

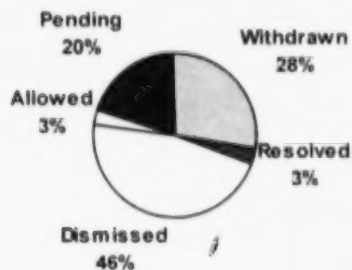


A P P E A L R E S U L T S

The 158 appeals filed this year, were dealt with as follows: 44 were withdrawn, 5 were resolved, 72 were dismissed, 5 were allowed, and 32 remain pending. The disposition of these appeals is illustrated in Chart II.

CHART II

Appeal Results 2003-2004

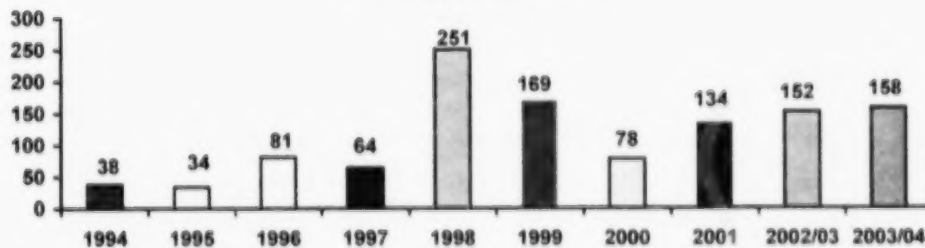


N U M B E R O F A P P E A L S

The following chart illustrates the change in the number of appeals filed over the last number of years.

CHART III

Yearly Appeal Numbers



Six appeals were filed with the Board during the period of September to December 1993 (not noted above). Presuming a constant rate of appeals filed, it is estimated that 24 appeals would have been

filed in total during the 1993 calendar year. During the 1994 calendar year, 38 appeals were filed, representing a 58% increase to the estimated number of appeals for 1993. As appeals are externally driven, there are no obvious factors to account for the increase between 1993 and 1994, other than awareness of the Board's existence to members of the public and industry.

During 1995, 34 appeals were filed. This represents a decrease of 11% from the previous year, but a 42% increase over the number of appeals in 1993. Again, no rationale is obvious for the decrease from 1994 to 1995. However, at the end of 1996, 81 appeals were filed. This represents a 138% increase over the previous year. During 1997, 64 appeals were filed which would provide an average of 48 appeals per year over the first five years. In 1998, the Board received 251 appeals, of which 209 related to one approval holder. Of the 169 appeals filed in 1999, 115 relate to 1 approval holder. During 2000, 78 appeals were filed which relates well to the 1997 numbers where there was not one particular approval which generated a majority of appeals for that year. 2001 saw an increase in the number of appeals filed to 134, however this increase is somewhat skewed as the reporting period for the 2001 annual report was 15 months as opposed to 12. The Board maintained its average in 2002/03 and received 152 appeals. In 2003/04, of the 158 appeals, 101 Water Act appeals related to 3 approval holders.

Based on the cumulative number of 1,165 total appeals, over 10.5 years of Board history, the Board is averaging 111 appeals per year.

Board's Accomplishments



A list of the Board's achievements follows, indicating our commitment to our mission, objectives, the implementation of our strategies, and the achievement of our goals.

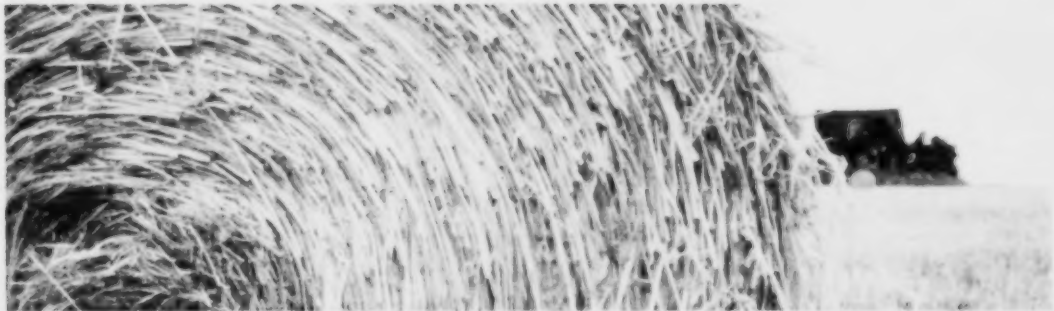
- In 2004, the Board's legal counsel, Mr. Gilbert Van Nes, successfully completed his assessments in interest-based mediation and negotiation and received his Certificate in Conflict Management from the Alberta Arbitration and Mediation Society.

- In 2004, the Board researched and implemented a new and advanced visual presentation system for its hearing room. The Board added additional screens for gallery viewing, monitors for Board Members in order to readily view presentation material, two LCD projectors and an advanced document camera for overhead projection. The update was conducted to provide Board Members and parties appearing before the Board with up-to-date display equipment to allow for clear and efficient presentations. The equipment is also convenient for Parties, as there is no longer a need to rent additional equipment for hearings.
- The Board significantly upgraded its electrical circuit system in its hearing room. This upgrade will allow for a smooth transition to the Board's future plans of implementing an electrical litigation support system for its hearings.
- As of March 31, 2004, 62 of the Board's decisions have been reported in the Canadian Environmental Law Reports. The Board's decisions have also been published in the Administrative Law Reports and the Alberta Law Reports. Decisions have also been the subject of scholarly analysis in law journals and have been widely reported in other legal and environmental publications. Selection of the Board's hearing decisions into the aforementioned reports is hopefully a reflection of the importance and quality of Board decisions. Many of the Board's decisions are also reported in the popular media such as in newspapers or television.
- The Board notes a budget surplus in 2003/04, despite extensive workloads and the increase in appeals filed. This is noteworthy considering the appeals filed are increasingly complex, especially those dealing with water allocation, aboriginal issue, and public interest standing.
- In 2004, Board staff participated on the Premier's Award of Excellence Leadership Team. The Premier's Award of Excellence is presented annually to teams that promote and recognize superior client service and business practices in the Alberta public service.
- The Board's General Counsel and Senior Research Officer are part of the executive law subsection of the Canadian Bar Association. This involvement promotes contact with other environmental law practitioners, and encourages current knowledge and developing issues in the field of environmental law. Participation also involves contact with other agencies such as the Natural Resources Conservation Board and the Federal Department of Fisheries and Oceans.
- The Board's General Counsel has taught at the University of Alberta, Faculty of Business undergraduate program on Natural Resources and Environmental Law, guest lectured for the MBA program in Natural Resources and Environmental Law, and guest lectured at the University of Alberta, Faculty of Law course on Alternative Dispute Resolution.

- The Board annually participates in Alberta Transportation's Caring for Alberta's Highways (Adopt-a-Highway Program) whereby Board staff volunteer to clear litter from a 3-kilometre stretch of highway in Southern Alberta.
- The Board is researching new ways of expanding its website in order to improve the quality and applicability of the information it contains. With regard to the popularity of its website, between 2003/04, the Board recorded 170,921 hits to its website compared to 27,032 in 1999.
- Board staff are actively involved in the executive and canvassing for the United Way Campaign.
- On an annual basis, the Board's General Counsel and Settlement Officer hosts a discussion/lecture on the environment and recycling for Japanese exchange students from the University of Alberta, Faculty of Extension. As a key component of their English as a Second Language program, students are introduced to the topic of recycling and how to minimize wastes in their own country.
- The Board continues to use confidential questionnaires/evaluations, given to parties to complete following mediation, to assess their satisfaction or concerns with the mediation process. The confidential evaluations assist the Board in making improvements to its mediation program.
- The Board's decisions on whether to provide access to information have never been appealed under the Freedom of Information and Protection of Privacy Act. This, hopefully, reflects the quality of the Board's decision-making ability.
- Only one complaint against the Board has been put forth to the Ombudsman; it was dismissed.
- The Board participates in the Department of Environment's Business Planning Steering Committee, the Government of Alberta's Integrated Management Information System (IMAGIS) Steering Committee, and the Freedom of Information and Protection of Privacy (FOIP) Steering Committee.
- The Board is a member of the Council of Canadian Administrative Tribunals (CCAT), which assists and promotes the philosophy of administrative, quasi-judicial tribunals.
- The Board provides public awareness regarding its process in the form of public presentations (see Appendix C for a listing of the Board's presentations).

- The Board participates in the Freedom of Information and Protection of Privacy (FOIP) coordinators meetings.

Summary of Board's Mediation Program



Mediation has become a key tool at the Board as it reduces costs and has allowed the Board to process appeals in an efficient and effective manner. The Board has carried out mediations on 51 percent of the appeals filed and has been successful in 83 percent of these cases. (Not all matters that come before the Board are appropriate for mediation).

Mediation is a form of alternate dispute resolution that allows the parties to find resolution of an appeal without going through the Board's hearing process. The key elements of mediation are that it is entered into freely by all parties and is designed to assist participants in reaching a mutually acceptable solution that is equitable and in accordance with their values. For this reason, it is important that all parties who attend mediation do so in good faith, and understand that since they will have a hand in shaping their own resolution, the end result will be more meaningful in addressing their own needs.

The type of mediation used by the Board is known as interest based mutual gains dispute resolution. This means the Board's mediators work to uncover the real reason or motivation behind the dispute and find out what is important to the parties in reaching a solution. This is known as the parties' interests. Once the parties' interests have been uncovered, the Board's mediator helps the parties come up with mutually agreeable solutions that meet as many of these interests as possible. This is the mutual gain that is being sought. By working out disputes in this way, parties have greater control over the outcome, and do not have to go through the Board's formal procedures (i.e., preliminary meetings, hearings, etc.), greatly reducing time commitments and costs.

When participating in mediation through the Board's process, the parties need to take into consideration the parameters of the legislation that govern both the Board and Alberta Environment. A mediator is used to facilitate open, honest discussion and acts as a neutral that works closely with the parties to uncover underlying interests and assists them in exploring possible

solutions. The mediator is not an advocate for either party and does not decide the final outcome. The mediator remains neutral to create an environment of trust within the mediation. Confidence in the mediator's sense of fairness and impartiality creates a greater willingness of the parties to have frank and open discussions and generate options, leading them to a mutually agreeable solution.

Before a mediation takes place, the Board's staff conduct extensive pre-mediation work through written correspondence and telephone conversations. The Board's staff work to educate the parties on mediation, help determine the issues to be discussed, and establish the date, time, location, and those who will be in attendance. For many of the parties, it is their first time dealing with the Board and mediation, therefore, educating the parties on what they can expect is incredibly important in creating a fair and level playing field in mediation. The Board's staff can and have been helpful in diffusing tension or emotion before a mediation by establishing the issues and gaining a greater understanding of the details of the appeal. The Board uses its members as mediators, and this approach has proven to be very successful. Each Board Member has been trained in mediation by Dr. Larry Susskind, President of the Consensus Building Institute and Director of the MIT/Harvard Public Disputes Resolution Program at Harvard Law School. The Board is also very active in ensuring its members are offered on-going mediation training through established local programs, and encourage training for Board staff that assist in mediations. Each of the Board Members are respected in their fields, and they bring this recognized expertise to the mediation. Board Members use their expertise to ensure effective communications between the parties, and that a level playing field is established where a complete and open discussion can take place.

The Board believes it is important to continually review and improve the way it conducts mediations and therefore, requests participants provide feedback via confidential evaluation forms. The information provided from participants assists the Board in determining where improvements can be made. The vast majority of participants indicated that mediation was a positive and effective process in resolving their disputes. They also indicated they would use the process again. Generally, participants indicated that they thought mediation was useful because it gave them the ability to speak candidly, restored relationships, and they were encouraged to develop their own solutions.

Given the continued success of the Board's mediation program, it is an area that we will continue to expand and improve. The Board has found it a very effective and efficient way to address the appeals that come before us.

Conclusion

The Environmental Appeals Board is proud of its accomplishments as outlined in this report and remains committed to our mission and conducting business in a fair and efficient manner. We are very excited for what the future holds in the year to come and the challenges that lie ahead.

At the Board we are always considering new and improved ways to increase efficiency, effectiveness and satisfy those who come before us. Our commitment is to continuously improve our business, and hence are always open to new suggestions from the public.



If you are interested in providing comments, would like a copy of this report, or seek additional information on the Board, please contact us at:

Environmental Appeals Board

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Edmonton, Alberta T5J 3S8

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Appendix A

S U M M A R Y O F A P P E A L S

04-011

Appellant(s) – Sarg Oils and Sergius Mankow, Operator – Sarg Oils, Location – Camrose, Type of Appeal – As listed below

Overview - On September 19, 1994, 16 appeals were filed by Sarg Oils and Sergius Mankow with respect to the issuance of 16 Environmental Protection Orders (EPOs). The Orders required the Appellants take remedial action with respect to 16 abandoned well sites in Camrose.

Decision – May 11, 1995, the Board issued a Decision indicating that the Director did not err in issuing the EPOs against Mankow and Sarg. The Board's decision underwent judicial review in the Court of Queen's Bench with a judgment stating that the Board must rehear the appeal.

Cite as: Sarg Oils Ltd. v. Director of Land Reclamation, Alberta Environmental Protection.

Report and Recommendations - A hearing took place on November 5 and 6, 1996 in Edmonton. The Board issued a Report and Recommendations to the Minister on December 5, 1996, confirming the Inspector issued the EPOs properly; however, directed that the Department of Environment immediately examine the criteria followed when deciding what parties are to be recipients of EPOs; and the criteria should be made publicly available. The Minister agreed with the Board's report on December 16, 1996.

Cite as: Sarg Oil Ltd. and Sergius Mankow v. Director of Land Reclamation, Alberta Environmental Protection.

As of March 31, 2004, this appeal is under Judicial Review.

00-067

Appellant(s) – McColl-Frontenac Inc., Operator – McColl-Frontenac Inc., Location – Calgary, Type of Appeal – Report and Recommendations

This is an appeal of Environmental Protection Order No. 2000-08 (the "EPO") issued by Alberta Environment under the Environmental Protection and Enhancement Act (the "Act"). The EPO requires McColl-Frontenac Inc. (McColl) to assess the extent and nature of pollution at a site in northwest Calgary and to design and implement plan for remediating that pollution. McColl is the successor to several companies that owned the site and operated a gas station on it for roughly twenty-five years. However, the gas station ceased operating in the late 1970s. For much of the time since, the site has been used for the operation of two equipment rental businesses. The Board heard the appeal through written submissions and included AI's Equipment Rentals (1978) Ltd., a previous occupant. In its submission, McColl argues that: (a) Alberta Environment violated the Legislature's intent by applying a section 102 EPO retrospectively to facts that occurred before the Act came into force; (b) Alberta Environment

violated McColl's legitimate expectation that would follow the *Guidelines for the Designation of Contaminated Sites*: (c) Alberta Environment erred by failing to name other parties as responsible persons; and (d) Alberta Environment erred by issuing the EPO under section 102 rather than under section 114 of the Act. The Board recommended on December 7, 2001 that the Minister affirm the EPO, while requiring the Director to consider in the future whether to designate the site as a contaminated site under section 110 of the Act and apply the remaining provisions of Part 4, Division 2 of the Act. The Minister agreed with the Board and issued Order 01/2002 on January 10, 2002 stating (1) order that the decision of the Director respecting the EPO is confirmed; and, (2) further order the Director to activate the EPO immediately under section 102 and, if new evidence supports it, to give due consideration to applying the procedures in Part 4 Division 2 to the site.

Cite as: *McColl-Frontenanc Inc. v. Director, Enforcement and Monitoring, Bow Region, Environmental Service, Alberta Environment*.

As of March 31, 2004, the Court of Queen's Bench Decision has been judicially reviewed to the Court of Appeal.

01-040 and 01-041

Appellant(s) - Ms. Sheila Mizera, Mr. Rudy Mizera, Ms. Gertie Mizera, Mr. Terry Mizera, Ms. Fay Mizera and Mr. Horst and Mr. Walter Glombick, **Operator** - Village of Ryley, **Location** - Village of Ryley, **Type of Appeal** - Discontinuance of Proceedings

The Board received Notices of Appeal from Ms. Sheila Mizera on behalf of herself and Ms. Gertie and Mr. Rudy Mizera on April 20, 2001, from Mr. Terry and Ms. Fay Mizera on April 24, 2001, and from Mr. Horst Glombick on April 27, 2001, appealing *Water Act* Approval No. 0014349-00-00, issued to the Village of Ryley. The Board also received Stay applications from Ms. Sheila Mizera and Mr. Horst Glombick. The Board held a mediation meeting on May 7, 2001, at which the parties reached an interim agreement, and agreed that the appeals would be held in abeyance for further discussion. Once the abeyance period expired, the parties reached a second interim agreement, agreeing to continue further discussions with a view towards a resolution of the appeals. On October 28, 2003, the Board received a letter from Ms. Sheila Mizera on behalf of Ms. Sheila Mizera, Mr. Rudy and Ms. Gertie Mizera, and Mr. Terry and Ms. Fay Mizera withdrawing their appeals. As a result, the Board issued a Discontinuance of Proceedings on November 3, 2003, and closed its file.

Cite as: *Mizera v. Director, Central Region, Regional Services, Alberta Environment re: Village of Ryley* (3 November 2003), Appeal Nos. 01-040 and 01-041-DOP (A.E.A.B.)

01-043

Appellant(s) - Mr. Horst Glombick, **Operator** - Village of Ryley, **Location** - Village of Ryley, **Type of Appeal** - Discontinuance of Proceedings

The Board received Notices of Appeal from Ms. Sheila Mizera on behalf of herself and Ms. Gertie and Mr. Rudy Mizera on April 20, 2001, from Mr. Terry and Ms. Fay Mizera on April 24, 2001, and from Mr. Horst Glombick on April 27, 2001. The Board also received Stay applications from Ms. Sheila Mizera and Mr. Horst Glombick. In agreement with the parties, the Board held a mediation meeting on May 7, 2001, in Edmonton at which the parties reached an interim agreement, and agreed that the appeals would be held in abeyance for further discussion. Once the abeyance period expired, the parties reached a second interim agreement, agreeing to

continue further discussions with a view towards a resolution of the appeals. A letter of withdrawal was received from Mr. Horst Glombick. The Board therefore issued a Discontinuance of Proceedings regarding Mr. Glombick's appeal only and closed its files.

Cite as: *Glombick v. Director, Central Region, Regional Services, Alberta Environment*, re: *Village of Ryley* (29 May 2003), Appeal No. 01-043-DOP (A.E.A.B.).

01-062

Appellant(s) – Imperial Oil Limited and Devon Estates Limited, **Operator** – Imperial Oil Limited and Devon Estates Limited, **Location** – Calgary, **Type of Appeal** – As listed below

Overview – Imperial Oil Limited and Devon Estates Limited ("the Appellants") filed a Notice of Appeal with the Board on July 3, 2001, with respect to Environmental Protection Order #EPO-2001-01 (the "EPO"), issued to the Appellants for the Lynnview Ridge residential subdivision. The EPO states that Imperial Oil ran an oil refinery on the lands that are now the subdivision between 1923 and 1975 and that the majority of lands were transferred to Devon Estates who developed them in conjunction with another company. The EPO also states that analytical results included in a May 2001 draft report indicate that "...numerous high hydrocarbon vapour concentrations [were] confirmed..." and that "...a number of soil samples taken for lead analysis...ranged over 1200mg/kg, and therefore exceed the Canadian Council of Ministers of Environment soil limit of 140mg/kg."

Decision – The purpose of this Decision is to determine which matters included in the Notice of Appeal will be included in the hearing of the appeal. Authorized under section 87(2), (3), and (4) of the Environmental Protection and Enhancement Act, the Board issued a Decision on August 22, 2001, determining that the following issues would be included: 1. Are the Appellants persons responsible under section 102? This question is limited to the issues of whether section 102 has retroactive effect. 2. Has there been a release within the meaning of section 1(ggg) having regard to its 'historical nature' and has this release caused an adverse effect? 3. Does the Director have the discretion to choose between issuing an EPO under section 102 and issuing an EPO under section 114 and was that discretion exercised properly? and, 4. Did the Director exercise his discretion unreasonably by not naming others known to the Director as persons responsible under the EPO?.

Cite as: *Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment*.

Decision – In consultation with the parties, the Board set a hearing on September 12, 13 and 14, 2001, in Calgary. However, the hearing was rescheduled and took place on October 16, 17 and 18, 2001. On September 11, 2001, the Director wrote the Appellants a letter indicating it was a "Decision on Conceptual Framework for Remediation at Lynnview Ridge". On September 12, 2001, the Director provided an additional letter to the Appellants. On September 18, 2001, the Appellants submitted a second Notice of Appeal to the Board with respect to the September 11 and 12 letters. On September 19, 2001, the Board sent letters to the parties requesting submissions on the second Notice of Appeal. The motions were: 1. Should the Board accept the new Notice of Appeal?, 2. Should the Board accept an amendment to the original Notice of Appeal?, 3. Should the Board add a new issue for the purposes of deciding the appeal? and 4. Document Production. On October 26, 2001, the Board issued a Decision that the following issue would be included in the hearing of the appeal: Issue 5: Is the EPO reasonable and sufficiently

precise in the circumstances up to the date of the hearing. The Board also confirmed its previous direction regarding how the document production issue would be addressed.

Cite as: *Preliminary Motions: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Decision - This Decision is with respect to two applications for document production. The Board has the power to order a witness to attend and produce documents at a hearing, pursuant to sections 3 and 4 of the Public Inquiries Act. For the Board to order the attendance of a witness and the production of documents, the Board must be satisfied that the evidence is potentially relevant and necessary to the issues that will be considered at the hearing of the appeal. On December 10, 2001, the Board issued a Decision to order Imperial Oil, the City of Calgary (an intervenor in this appeal), and the Director to provide witnesses and produce documents that the Board believes are potentially necessary and relevant to the issues before the Board in this appeal that are subject to certain general conditions. In its decision, the Board also took into consideration concerns expressed by the parties with respect to ensuring the search for the ordered documents is conducted properly and completely, that the document issues be brought to a close as soon as possible and that the parties provide documents within the timelines specified in the agreement.

Cite as: *Document Production Motions: Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment.*

Report and Recommendations - On October 16-18, 2001 and February 5 and 6, 2002, the Board undertook an extensive hearing and received volumes of legal, technical and scientific information regarding the appeal from the parties. Taking all information into account, the Board provided the following recommendations to the Minister in that he should: 1. confirm Alberta Environment's decision to issue the "substance release" EPO; 2. confirm Alberta Environment's decision not to name parties other than Imperial Oil and Devon Estates in the EPO; 3. confirm that Alberta Environment's decision to issue the EPO was reasonably and sufficiently precise so as to provide a proper foundation for the implementation direction to require the removal of soils containing greater than 140 ppm of lead between 0.3 metres and 1.5 metres; 4. confirm that Alberta Environment's decision to issue the EPO was reasonably and sufficiently precise so as to provide a proper foundation for the implementation direction to require the removal of 0.3 metres of soil under decks, fences, gardens, shrubs, and tree; 5. vary the EPO to make it clear that the implementation direction to remove 0.3 metres of soil under driveways, patios, and sidewalks on private property where they provide an effective barrier to the lead in the soil is not within the scope of the EPO; 6. vary the EPO to require that the work under the EPO shall be performed to the satisfaction of the Director; and 7. direct Alberta Environment to continue to apply the "substance release" EPO and, if new evidence supports it, to apply a "contaminated site" EPO. The Minister agreed to the Board's recommendations on July 22, 2002.

Cite as: *Imperial Oil Ltd. and Devon Estates Ltd. v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment re: Imperial Oil Ltd.*

Intervenor Decision - This Decision is with respect to intervenor requests filed with the Board by Lynnview Ridge Residents Action Committee, Calhome Properties, the City of Calgary, the Calgary Health Region, and Rio Verde Properties ("Rio Verde"). After reviewing the requests, the Board issued a Decision on July 23, 2002, granting full party to status to all parties except for Rio Verde. In the Board's analysis of the request, it determined that the issues expressed by Rio

Verde were already included in the lists of concerns of the other applicants. Hence, Rio Verde would be able to submit a written submission only.

Cite as: Intervenor Decision: *Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment*.

Stay Decision – This Decision is with respect to a request for a Stay the Board received from Imperial Oil. The Stay was in response to two letters dated September 11 and 12, 2001, issued by Alberta Environment to Imperial Oil. The letters provide further directions in relation to remediation work to be carried out under the EPO. The Board determined Imperial Oil presented a *prima facie* case for a Stay and requested submissions from the other parties to the appeal as to whether a Stay should be granted. After careful review of information presented, on July 23, 2002, the Board issued a Decision advising that even though Imperial Oil had shown there was a serious issue to be determined, it did not convince the Board that a Stay should be granted.

Cite as: Stay Decision: *Imperial Oil Limited v. Director, Enforcement and Monitoring, Bow Region, Regional Services, Alberta Environment*.

As of March 31, 2004, the Court of Queen's Bench Decision has been judicially reviewed to the Court of Appeal.

01-080, 081, 082, 084, 085, 134, 02-002

Appellant(s) – Mr. Blair Carmichael, Enron Canada Power Corporation, Mr. David Doull, the Lake Wabamun Enhancement and Protection Association, Mr. Nick Zon, **Operator** – TransAlta Utilities Corporation, **Location** – Wabamun Lake, **Type of Appeal** – See below

Overview – Alberta Environment issued on July 30, 2001 Amending Approval 18528-00-03 and on March 9, 2002 issued *Water Act* Licence Amendment No. 00037698-00-02 to TransAlta Utilities Corporation, for the construction, operation, and reclamation of the Water Treatment Plant to be constructed at the Sundance Power Plant site at Wabamun Lake, County of Parkland, Alberta. The purpose of the plant is to mitigate the effects of the other TransAlta operations on Wabamun Lake. The Board received a five appeals from Mr. Blair Carmichael, Enron Canada Power Corporation, Mr. David Doull, the Lake Wabamun Enhancement and Protection Association and Mr. Nick Zon respecting the Approval for the Wabamun Lake Water Treatment Plant. The Board then received three appeal from Mr. David Doull, the Lake Wabamun Enhancement and Protection Association and Mr. Nick Zon with respect to the *Water Act* Licence.

Decision – Enron Canada Power Corporation filed a Notice of Appeal on August 30, 2001 objecting to the Approval on the basis that it indirectly imposed obligations under the Sundance Power Plant Approval, in which Enron claims an interest. Enron claims that it has the right to appeal the Water Treatment Plant Approval as a result of the Power Purchase Arrangement that it has with TransAlta in relation to the Sundance Power Plant. On June 26, 2002, the Board issued a Decision disagreeing with Enron, and dismissing the appeal because: 1. Enron has sold "all of its interests" in the Power Purchase Arrangement to the ASTC Power Partnership, who has decided *not* to appeal; 2. Enron's financial and economic interests, which the Board found to be the *major* basis of Enron's appeal arguments, was not sufficient on the facts of this case to establish that Enron was directly affected; and 3. Enron's real challenge was not aimed at the decision of Alberta Environment, but at a commercial dispute with TransAlta, and as such, there was nothing claimed against Alberta Environment upon which the Board should decide or Alberta Environment could do.

Cite as: *Enron Canada Power Corporation v. Director, Northern East Slopes Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

Decision - After reviewing the submissions and hearing the presentations of Mr. Blair Carmichael, Mr. David Doull, Mr. Nick Zon, the Lake Wabamun Enhancement and Protection Association, TransAlta Utilities and Alberta Environment, at the preliminary meeting on April 17, 2002, the Board issued a Decision on June 25, 2002 stating that it has determined that it will consider the following issues at the hearing of these appeals: Issue 1: the adequacy of the water balance model and the factors (e.g. surface runoff) that it relies upon as a basis for establishing the requirements for the quantity of treated water to be returned to Wabamun Lake by means of the water treatment plant; Issue 2: the ability of the water treatment plant, as approved, to be able to deliver the specified quantities of treated water to Wabamun Lake; Issue 3: the water quality of the Sundance cooling pond as it may be a factor in limiting the ability of the approved water treatment plant to deliver the quantities of water specified in the License to the quality required by the Approval; and Issue 4: the method and timing of providing reports to interested individuals and the actual content of the data reported as effective means to assure the Parties that the proposed mitigation is achieving the expected compensation for the impact of the Approval Holder upon water levels in Wabamun Lake.

Cite as: *Issues Decision: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

01-080, 082, 084, 085, 134, 02-002 and 003-ID - The Board had scheduled a hearing for May 15 and 16, 2002. Shortly before the hearing the Lake Wabamun Environmental Protection Association ("LWEPA") made a motion to expand the scope of the hearing to more broadly consider water quality issues as a result of recent reports of fish mortality and significant exceedances of heavy metals at Lake Wabamun. The Board asked for written submissions from the parties in response to this request and also heard oral arguments at the beginning of the hearing. The Board also heard oral evidence from two employees of Alberta Environment, one of whom is responsible for the investigation into the reports of fish mortality and exceedances of heavy metals. Considering all of the arguments, including the evidence of the witnesses, the Board decided to adjourn the hearing for 90 days to permit Alberta Environment to complete its investigation and report back to the Board and the parties (subject to the privileges that may apply to investigations and/or prosecutions). The Board decided that while, at this time, there is no reason to expand the scope of the hearing, the Board's function is to provide the Minister with the most thorough and complete report and recommendations that it can. Given the fact that more information will shortly be available, that according to one of the Alberta Environment witnesses may be relevant to the issues the Board is trying to decide, the Board is required by the principles of natural justice and procedural fairness to adjourn the hearing until this information on fish and heavy metals is available. In making this decision, the Board is mindful that it must balance two competing interests - efficiency and thoroughness. However, in the absence of any prejudice to any of the parties (and all parties noted that there was no prejudice against them save TransAlta's witnesses being present), the Board decided it was appropriate to adjourn the hearing. At the conclusion of the 90 days, and subject to whatever motions are proper at that time, the Board will proceed with the hearing. The Board outlined its reasons in its Decision of May 30, 2002.

Cite as: *Adjournment Motion: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

01-085-D - The Board commenced the Hearing on May 15, 2002. Appellant, Mr. Nick Zon, did not attend the hearing, nor did he file any written submissions with the Board as is required by the Environmental Appeal Board Regulation. The Board also wrote to him prior to the hearing to ask if he would be filing a written submission. He did not respond. On May 31, 2002, the Board issued a Decision stating that pursuant to section 95(5) of the *Environmental Protection and Enhancement Act* for failing to comply with a written notice, and pursuant to section 32 of the Board's Rules of Practice for failing to attend a proceeding, the Board dismissed Mr. Zon's appeal.

Cite as: *Zon v. Director, Northern East Slopes Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

Discontinuance of Proceedings - The Board commenced the hearing of this matter on May 15, 2002, however the Board received an e-mail from Appellant, Mr. Blair Carmichael, on June 10, 2002 advising that he had reached an agreement with TransAlta Utilities Corporation and as a result is withdrawing his appeals. The Board therefore closes its files in the matter of his appeal and issued a Discontinuance of Proceedings on June 13, 2002.

Cite as: *Carmichael v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation.*

01-082, 01-084, 02-002, and 02-0030-R - Following several motions with respect to the issues to be considered in the hearing, the Board determined that the following issues would be considered: 1. the adequacy of the water balance model as a basis for establishing the quantity of water to be returned to the Lake; 2. the ability of the water treatment plant to deliver the specified quantities of water; 3. the water quality of the Sundance Cooling Pond as a limiting factor on the ability to deliver the quantities of water required to the quality required; and 4. the method and timing of providing reports. Based on the evidence presented, particularly by Alberta Environment and the independent witness Mr. Gan, the Board is of the view that a 10 percent safety factor should be added to the requirement for returning water to Wabamun Lake. Further, some additional information should be collected to improve the water balance model. The Board does not have concerns with the ability of the water treatment plant to return the qualities of water required. The Board also does not foresee that TransAlta's decision to use the Sundance Cooling Pond as the source of water for the water treatment plant makes it inherently likely that it will fail to satisfy the terms of the Approval and the Licence. Finally, with respect to additional reporting requirements, TransAlta has previously agreed to address stakeholder concerns. The Board is of the view that the additional reporting requirements and the additional commitments are reasonable, and where appropriate, should be incorporated into the Approval or Licence. On November 18, 2002, the Board issued a Report and Recommendations to the Minister of Environment to confirm the Licence and Approval subject to provisions listed. The Minister approved the recommendations by the Board on February 11, 2003.

Cite as: *Doull et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation* (18 November 2002), Appeal Nos. 01-082, 01-084, 02-002, and 02-003-R (A.E.A.B.).

01-082, 01-084, 02-002, and 02-003-ID3 - The Board held a Preliminary Meeting and commenced a Hearing (that was adjourned after a preliminary motion and subsequently reconvened), and in doing so, requested the participation of potential intervenors. Mr. C.G.P. Spilsted was recognized as a potential interested person and was granted limited intervenor status with respect to these appeals. However, when the Hearing adjourned, Mr. Spilsted requested that the Board reconsider its intervenor decision and grant him the right to participate more actively at

the continuation of the Hearing. After receiving submissions from the parties, the Board issued a Decision on February 13, 2003, granting Mr. Spilsted's request for a more active role at the continuation at the Hearing.

Cite as: Intervenor Decision: *Spilsted v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment*, re: *TransAlta Utilities Corporation* (13 February 2003), Appeal No.s. 01-082, 01-084, 02-002, 02-003-ID3 (A.E.A.B.).

01-082, 01-084, 02-002, and 02-003-CD - The Board had determined four issues to be heard at the hearing. Prior to the hearing date, the Lake Wabamun Protection and Enhancement Association (LWEPA) filed a motion requesting that the issues be expanded. The Board dismissed LWEPA's motion to expand the scope of the hearing, and granted an adjournment to require Alberta Environment to continue with the studies regarding the fish kills and heavy metals in the lake. The Board asked Alberta Environment to file these reports, and once it had received the reports, the Board would entertain further motions to expand the scope of the hearing, should any of the parties wish to make such motions. Prior to the hearing recommencing, the Board received an application for interim costs from LWEPA requesting funds to engage two experts to review reports provided by Alberta Environment and TransAlta. After reviewing the application and the submission of the parties, the Board determined that the costs requested did not reasonably and directly relate to the issues under appeal. Therefore, the Board issued a Decision on February 13, 2003, to deny the request for interim costs.

Cite as: Costs Decision re: *TransAlta Utilities Corporation* (13 February 2003), Appeal Nos. 01-082, 01-084, 02-002, and 02-003-CD (A.E.A.B.).

01-082, 01-084, 02-002, and 02-003-ID4 - Following the adjournment, the Board permitted the parties to file any further motions regarding issues to be heard at the hearing. Mr. Doull filed a motion to expand the issues to include water quality of the Lake in general and to adjourn the hearing until such time that all relevant information was available. TransAlta filed a motion that three of the four issues initially identified by the Board are now moot. No motion was received by LWEPA. After receiving and reviewing submissions on these motions, the Board determined: (1) that the issues should not be expanded to include water quality generally as no connection was demonstrated between the fish kills and heavy metals and the Water Treatment Plant; and (2) the issues set by the Board are not moot. The Board directed that the hearing proceed and that the original four issues, as determined by the Board, would be the issues that would be heard. The Board has subsequently concluded the Hearing, issued its Report and Recommendations on November 18, 2002, and the Minister accepted the Board's recommendations. These reasons complete the Board's file in this matter and the Board issued a Decision on May 15, 2003.

Cite as: Preliminary Motions: *Doull et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment*, re: *TransAlta Utilities Corporation* (15 May 2003), Appeal Nos. 01-082, 01-084, 02-002 and 02-003-ID4 (A.E.A.B.).

01-080, 01-082, 01-084, 01-085, 01-134, 02-002 and 02-003-E - The Board issued an Erratum for Issues Decision: *Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment* re: *TransAlta Utilities Corporation* (25 June 2002), Appeal No. 01-080, 01-082, 01-084, 01-085, 01-134, 02-002, 02-003-ID2 (A.E.A.B.) on May 8, 2003. The Board removed and replaced paragraph 44.

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Cite as: *Erratum: Issues Decision: Carmichael et al. v. Directors, Northern East Slopes Region and Central Region, Regional Services, Alberta Environment, re: TransAlta Utilities Corporation* (8 May 2003), Appeal Nos. 01-080, 01-082, 01-084, 01-085, 01-134, 02-002 and 02-003 (A.E.A.B.).

01-080

Appellant(s) - Ms. Linda Court, **Operator** - Lafarge Canada Inc., **Location** - Municipal District of Rocky View No. 44, **Type of Appeal** - As listed below.

Overview - On October 2, 2001, Alberta Environment issued Approval 150612-00-00 to Lafarge Canada Inc. for the opening up, operation, and reclamation of a pit on N 7-22-28-W4M and NE 12-22-29-W4M in the Municipal District of Rocky View, Alberta.

Decision - On November 21, 2001, the Board received a Notice of Appeal from Ms. Linda J. Court appealing the Approval. In consultation with the parties, a mediation meeting was held on January 23, 2002, in Calgary, Alberta. However, the Parties did not reach a resolution. Although the Notice of Appeal stated the grounds of the appeal, the Board decided that it was necessary to more precisely indicate what issues are properly before the Board. After reviewing the submissions, the Board issued a Decision on April 22, 2002, stating that the only issues properly before it are: 1. The effect that dust and other air pollutants from the Lafarge Operation may have directly on the Appellant; 2. The effect that noise from the Lafarge Operation may have directly on the Appellant; and 3. The cumulative effects that dust and other air pollutants and noise from the Lafarge Operation, and as specifically regulated by the Approval, may have directly on the Appellant. The operation of the other facilities in the area is *not* before the Board. The other facilities are only relevant to the extent that they form part of the circumstances in which the Lafarge Operation is proposed to be constructed, and to the extent that they contribute to the determination of the cumulative effects as they directly affect the Appellant. The threshold issue of the directly affected status of the Appellant remains outstanding, and this is an issue that must be addressed as a preliminary matter of jurisdiction at the hearing. No representations may be made on any other matters at the hearing of this appeal.

Cite as: *Court v. Director, Bow Region, Regional Services, Alberta Environment, re: Lafarge Canada Inc.*

Intervenor Decision - After the issues with respect to this appeal were determined, hearing dates of July 24 and 25, 2002 were decided. As a result of posting the Notice of Hearing in local newspapers, the Board received 19 requests for intervenor status from the residents, the Calgary Health Region, the Alberta Roadbuilders and Heavy Construction Association, the Alberta Sand and Gravel Association, Ms. Shirley and Mr. Rick Schmold, Ms. Joan and Mr. Gerald Marshall, Mr. Brian Evans, Mr. A.G. Soutzo and Burnco Rock Products Ltd. The Board reviewed the requests and the submissions from the parties and on July 12, 2002, issued a Decision advising that the Calgary Health Region would have full party status at the hearing. The remaining individuals, companies, and organizations were permitted to file written submissions only.

Cite as: *Intervenor Decision: Court v. Director, Bow Region, Regional Services, Alberta Environment, re: Lafarge Canada Inc.*

Decision - The Board held a hearing on July 24 and 25, 2002 and received evidence on issues concerning: 1. Ms. Court's directly affected status, 2. The effect that dust and other air pollutants from the Lafarge Operation may have directly on Ms. Court, 3. The effect that noise from the Lafarge Operation may have directly on Ms. Court, and 4. The cumulative effects that dust, other

air pollutants, and noise from the Lafarge Operation, as specifically regulated by the Approval, may have directly on Ms. Court. Prior to considering the substantive issues in this appeal, the Board had to determine if Ms. Court was directly affected by the Approval issued to Lafarge. Based on the evidence received and the arguments of the parties, the Board issued a Decision on August 31, 2002, and determined that Ms. Court is not directly affected by the Lafarge Operation. As a result, the Board does not have the jurisdiction to consider the other issues raised in this appeal. The Board was of the opinion that Ms. Court's real concern is the impact of the other existing sand and gravel operations in the area.

Cite as: *Court v. Director, Bow Region, Regional Services, Alberta Environment re: Lafarge Canada Inc.* (31 August 2002), Appeal No. 01-096-D (A.E.A.B.).

As of March 31, 2004, this appeal is under Judicial Review.

02-018-041, 047, 060, 061, 073, 074-ID1

Appellant(s) - Mr. David Doull (02-018), Mr. James Darwish (02-019), Ms. Verona Goodwin (02-020), Ms. Elena P. Napora (02-021), Mr. Don Stuike (02-022), Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr. (02-023), Mr. Cameron Wakefield (02-024), Mr. David J. Parker (02-025), Mr. A. Ted Krug (02-026), Mr. Bill Bocock (02-027), Mr. Michael Nelson (02-028), Mr. Stanley Kondratiuk (02-029), Mr. Greg Ostapowicz (02-030), Mr. Douglas Price (02-031), Ms. Holly MacDonald (02-032), Mr. Stuart Pederson (02-033), Ms. Linda Stratulat (02-034), Mr. Leonard Rud (02-035), Mr. Marcel Wichink (02-036), Dr. Roger G. Hodgkinson (02-037), Ms. Lorraine Vetsch (02-038), Ms. Gwen Davies (02-039), Mr. Garry Marler (02-040), a group of Community Leagues from the City of Edmonton (02-041), Mr. Neil Hayes (02-047), Mr. Robert Wilde (02-060), the Edmonton Friends of the North Environmental Society ("EFONES") (02-061), Ms. Bonnie Quinn (02-073), and Ms. Anna T. Krug (02-074) **Operator** - Inland Cement Limited, Location - Edmonton, **Type of Appeal** - As listed.

Overview - Between June 14 and July 2, 2002, the Environmental Appeal Board received twenty-nine appeals with respect to Amending Approval No. 10339-01-03 issued to Inland Cement Limited for the construction, operation, and reclamation of a cement manufacturing plant in Edmonton, Alberta. The Approval allows for the burning of coal instead of natural gas as a fuel source at the cement plant.

02-018-041, 047, 060, 061, 073, 074-ID1 - The Board held a Preliminary Meeting to determine the standing of the Parties who filed appeals and to determine the issues to be considered at the subsequent Hearing. The majority of the Parties reached an agreement and presented a joint submission to the Board on these questions, which the Board has accepted in principle. In the Board's view, the agreement was consistent with the purposes of the *Environmental Protection and Enhancement Act* and the public interest. As a result, the Board issued a Decision on October 11, 2002, deciding to accept the standing of Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stan Kondratiuk, Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Dr. Roger G. Hodgkinson, Mr. Neil Hayes, and Ms. Anna T. Krug. The Board has also decided to make the Edmonton Federation of Community Leagues ("EFCL") and the Edmonton Friends of the North Environmental Society ("EFONES") parties to these appeals, however, dismissed Mr. David Doull and Ms. Bonnie Quinn. The Board also determined that the issues that would be considered at the Hearing of these appeals were: 1. emission limits for particulate matter, sulphur dioxide, nitrogen oxides, heavy metals and radioisotopes; 2. adequacy of existing baseline data; 3. emission monitoring, including the type, location and frequency of monitoring; 4. appropriateness and validity of modeling methods and results; 5. appropriateness of including certain requirements in the Approval as opposed to making them requirements of the

application, specifically: a) ambient air monitoring plans, b) trial burn, c) fugitive emission reduction plan, d) use of landfill gas, and e) information regarding the type and source of coal; 6. use of best available demonstrated technology; 7. timeline for installation of a baghouse; 8. number of trips; 9. local residents trip notification system; 10. adequacy of health impact assessment; 11. appropriateness of health impact assessment update; 12. ongoing consultation with local residents and local residents liaison committee; 13. need for the conversion to coal as a fuel source; 14. control of greenhouse gas emissions; and 15. use of tires as kiln fuel, limited to Approval Clause 4.1.17.

Cite as: Preliminary Issues: *Doull et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (11 October 2002), Appeal Nos. 02-018-041, 047, 060, 061, 073, and 074-ID1 (A.E.A.B.).

02-023, 024, 026, 029, 037, 047 and 074-ID2 – On November 26, 2002, the Board commenced a Hearing into this matter and heard a number of preliminary motions. Among these motions was a request by the EFONES and EFCL groups for an adjournment of the Hearing. The basis for this request was that both groups required more time to respond to a health impact study, and a supplement to that study, that was filed by Lehigh Inland Cement as part of their written submissions. The Board issued a Decision on December 12, 2002, concluding that it was necessary for the Board to accept the studies, as they were directly relevant to the matters before the Board. As a result, the Board granted the adjournment. The Board believes that the principles of natural justice and procedural fairness that gives a party the right to know the case against them and the right to respond to this case, are best served by granting the adjournment and that none of the parties before the Board are prejudiced by granting the adjournment. As human health is a fundamental consideration in these appeals, the Board ordered the Medical Officer of Health for the Capital Health Authority attend the hearing.

Cite as: Adjournment Decision: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Lehigh Inland Cement Limited* (12 December 2002), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-ID2 (A.E.A.B.).

02-019, 020, 021, 022, 025, 027, 028, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040 and 060-DOP – The Board held a Preliminary Meeting on September 17, 2002, in the Board's office in Edmonton. The purpose of the Preliminary Meeting was to discuss: 1. the standing of the Appellants, including their directly affected status and whether they filed statements of concern; 2. the standing of Mr. Doull, whether Mr. Doull's statement of concern was valid and if he was directly affected; 3. the issues to be dealt with at the hearing of these appeals and 4. whether to consolidate the appeals." The majority of parties reached an agreement and presented a joint submission to the Board, which the Board accepted in principle. In the Board's view, the agreement was consistent with the purposes of the *Environmental Protection and Enhancement Act* and the public interest. As a result, Mr. James Darwish, Ms. Verona Goodwin, Ms. Elena Napora, Mr. Don Stuike, Mr. David J. Parker, Mr. Bill Bocock, Mr. Michael B. Nelson, Mr. Greg Ostapowicz, Mr. Douglas Price, Ms. Holly MacDonald, Mr. Stuart Penderson, Ms. Linda Stratulat, Mr. Leonard Rud, Mr. Marcel Wichink, Ms. Lorraine Vetsch, Ms. Gwen Davis, Mr. Garry Marler and Mr. Robert Wilde withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on January 17, 2003, and closed its files.

Cite as: *Darwish et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (17 January 2003), Appeal Nos. 02-019, 020, 021, 022, 025, 027, 028, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040 and 060-DOP

Cite as: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (17 January 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-R (A.E.A.B.).

02-023, 024, 026, 029, 037, 047, and 074-ID3 – The Board determined that Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stanley Kondratiuk, Ms. Anna T. Krug, Dr. Roger G. Hodgkinson, Mr. Neil Hayes, the Edmonton Friends of the North Environmental Society, and a group from the Edmonton Federation of Community Leagues (EFCL) would be granted standing. The EFCL filed a motion for the Board to order Inland to produce 12 documents that Inland had in its possession. After reviewing the Parties' submissions, the Board determined that the documents requested were relevant and necessary to the issues that were heard by the Board. Therefore, the Board issued a Decision on February 13, 2003, ordering Inland to produce the documents and provide a witness to speak to the documents at the Hearing. The Hearing was held on December 16, 17 and 18, 2002, and on January 22, 2003, the Minister ordered that a baghouse be installed at Inland's facility in Edmonton.

Cite as: Document Production: *Maga et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Inland Cement Limited* (13 February 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-ID3 (A.E.A.B.).

02-023, 024, 026, 029, 037, 047, and 074-CD – After the Report and Recommendations was issued, the Board received applications for costs from Ms. Anna T. Krug and the EFCL in the amount of \$87,348.10. The costs were in the amount of \$51,976.93 for legal costs and in the amount of \$35,371.17 for witness costs. The Board also received a costs application from EFONES, Mr. Ron and Ms. Gail Maga and Mr. Ron Maga Jr., Mr. Cameron Wakefield, Mr. A. Ted Krug, Mr. Stanley Kondratiuk, and Dr. Roger G. Hodgkinson in the amount of \$74,706.07, which included \$35,571.76 for legal costs and \$39,134.31 for witness costs. Mr. Neil Hayes also submitted an application for costs in the amount of \$3,519.12. On June 27, 2003, the Board issued a Decision awarding costs to the EFCL in the amount of \$31,954.87 and to EFONES in the amount of \$15,775.82. Mr. Hayes was awarded costs in the amount of \$90.32. All costs which total \$47,821.01, are to be awarded by Inland.

Cite as: Costs Decision: *Maga et al.* (27 June 2003), Appeal Nos. 02-023, 024, 026, 029, 037, 047, and 074-CD (A.E.A.B.).

02-077

Appellant(s) – Ms. Beverly Smith, **Operator** – CCS Energy Services Inc., **Location** – near Lindbergh in the County of St. Paul, **Type of Appeal** – Decision

On November 7, 2002, the Board received a Notice of Appeal from Ms. Beverly Smith with respect to Licence No. 00187391-00-00 issued under the *Water Act* to CCS Energy Services Inc., authorizing the diversion of up to 2,990, 400 cubic metres of water annually from the North Saskatchewan River on the NE 22-56-5-W4M near Lindbergh in the County of St. Paul, Alberta, for commercial purposes. The Board held a Preliminary Meeting to address the Stay request of Ms. Smith and the question of whether she is directly affected by the Licence. After reviewing submissions of the parties and hearing arguments, the Board determined that Ms. Smith was not directly affected by the withdrawal of the water under the Licence. The Board also determined that the appeal is without merit as the issues Ms. Smith presented were general in nature and not

specific environmental concerns. Therefore, the Board issued a Decision on June 6, 2003, dismissing the appeal.

Cite as: *Smith v. Director, Northern Region, Regional Services, Alberta Environment* re: *CCS Energy Services Inc.* (6 June 2003), Appeal No. 02-077-D (A.E.A.B.).

02-078 and 02-138

Appellant(s) - Mr. James and Ms. Annette McClelland, **Operator** - Mountain Creeks Ranch Inc., **Location** - near Hinton, **Type of Appeal** - Report and Recommendations

On November 7, 2002, the Board received a Notice of Appeal with respect to Approval No. 00148782-00-00 issued under the *Water Act*, to Mountain Creeks Ranch Inc. authorizing the construction of a storm water management works on the surface runoff tributary of Maskuta Creek. On January 24, 2003, the Board also received a Notice of Appeal from the Appellants appealing Licene No. 00154364-00-00 issued under the *Water Act* authorizing the diversion of up to a maximum of 3, 272 cubic metres of water annually from the well in SE 25-050-26-W5M for recreational purposes near Hinton, Alberta. The Board held a mediation meeting in Hinton, Alberta, at which the parties agreed to continue discussions with a view towards resolution of the appeals. The parties also agreed to provide status reports to the Board on a regular basis. The parties subsequently reached a resolution, and the Board issued a Report and Recommendations on July 22, 2003, recommending the Minister accept the resolution. The Minister approved the recommendations on July 28, 2003.

Cite as: *McClelland v. Director, Central Region, Regional Services, Alberta Environment* re: *Mountain Creeks Ranch Inc.* (22 July 2003), Appeal Nos. 02-078 and 138-R (A.E.A.B.).

02-079 and 02-080

Appellant(s) - Ms. Katherine McCulloch, Messrs. Richard Kelk and Ross Warner, **Operator** - AAA Cattle Company., **Location** - Didsbury, **Type of Appeal** - Active

On November 7, 2002 the Board received a Notice of Appeal from Ms. Katherine McCulloch and Mr. Richard Kelk, and on November 8, 2002, a Notice of Appeal was received from Mr. Ross with respect to Licence No. 00188451-00-00, issued under the *Water Act* R.S.A. 2000, c. W-3 to AAA Cattle Company Ltd. The Licence authorizes the diversion of 126,150 cubic metres of groundwater annually from Production Well No. PW5-02, PW6-02, PW7-02 and PW8-02, located in the SW 04-031-27-W4, near Didsbury, Alberta, for the purpose of Agriculture (15,700 head feedlot expansion). The Appeal was placed in abeyance pending the outcome of the Natural Resources Conservation Board's process that is currently before the Court of Appeal.

As of March 31, 2004, these appeals are currently outstanding.

02-081 and 02-082-R

Appellant(s) - Mr. Ross Graham and Mr. Douglas and Ms. Sherry Brock, **Operator** - Brookfield Pork Ltd., **Location** - near Lacombe, **Type of Appeal** - Report and Recommendations

On November 14 and 21, 2002, the Board received Notices of Appeal from Mr. Ross Graham and Mr. Douglas and Ms. Sherry Brock with respect to Licence No. 00188715-00-00 issued under the

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Water Act to Brookfield Pork Ltd. authorizing the diversion of 8,537 cubic metres of water annually from the well in NE 19-038-25-W4 for agricultural purposes (confined feeding operation). The Board held a mediation meeting in Red Deer, Alberta on April 29, 2003, following which a resolution was reached by the parties. On May 5, 2003, the Board issued a Report and Recommendations recommending to the Minister of Environment that the licence be varied. The Minister approved the Board's recommendations on May 13, 2003.

Cite as: *Graham et al. v. Director, Central Region, Regional Services, Alberta Environment re: Brookfield Pork Ltd.* (05 May 2003), Appeal Nos. 02-081 and 02-082-R (A.E.A.B.).

02-083

Appellant(s) - Mr. Lou and Ms. Betty Coulombe, **Operator** - Alta Gas Ltd., **Location** - near Bonnyville, **Type of Appeal** - Discontinuance of Proceedings

On November 25, 2002, the Board received a Notice of Appeal from Mr. Lou and Ms. Betty Coulombe, landowners, with respect to Reclamation Certificate No. 00138181-00-00 to Alta Gas Ltd. for the surface of land within SW Sec 01 Tp 061 Rge 05 W4M in connection with the Bonnyville Gas 6-1-61-5 well near Bonnyville, Alberta. The Board held a mediation meeting in Bonnyville, Alberta on February 14, 2003. At the mediation meeting, the parties agreed to hold the appeal in abeyance in order for them to pursue further discussions toward a resolution of the appeal, and to provide the Board with a status report on their progress by June 27, 2003. On June 25, 2003, the Appellants subsequently withdrew their appeal and as a result, the Board issued a Discontinuance of Proceedings, and closed its files.

Cite as: *Coulombe v. Inspector, Northern Region, Regional Services, Alberta Environment re: Alta Gas Ltd.* (30 June 2003), Appeal No. 02-083-DOP (A.E.A.B.).

02-093, 094, 102, 103, 122, 127, 128, 129, 134, and 135

Appellant(s) - Mr. Douglas A. Hudson, Mr. Cameron and Ms. Elaine Snoble and Ms. Clara Snoble, Mr. Marvin and Ms. Patricia Loberg, Mr. David and Ms. Sharon Volker, Ms. Shirley Hogg, Mr. L. Bozarth, Mr. Gerald H. and Ms. Judith E. Bozarth, Mr. R. Wayne and Ms. Kerri Badger and family, the County of Grande Prairie No. 1, and Ms. Nellie Sterr, **Operator** - Town of Sexsmith, **Location** - near Sexsmith, **Type of Appeal** - Decision

On November 20, 2002, Alberta Environment issued Preliminary Certificate 00156592-00-00 under the *Water Act* to the Town of Sexsmith. Upon meeting certain conditions, the Preliminary Certificate would grant a water licence to the Town authorizing the diversion of 58,200 cubic metres of water annually from the well in LSD 03-13-74-06-W6M near Sexsmith, Alberta. Fourteen appeals were filed with respect to the Preliminary Certificate. Alberta Environment identified a number of preliminary issues with respect to the appeals. However, the Board decided that it would conduct an information meeting and deal with any preliminary issues after the information meeting was held. Shortly after the Board advised that it wished to hold an information meeting, the Town of Sexsmith withdrew its application for the Preliminary Certificate. In response, Alberta Environment cancelled the Preliminary Certificate. As a result, four of the appeals were withdrawn, and the Board issued a Discontinuance of Proceedings respecting these four appeals. With respect to the remaining appeals, after giving the parties an opportunity to provide the Board with written submissions, the Board determined the issues raised in the remaining Notices of Appeal were moot. Further, five of the Appellants did not

submit a response to the Board's questions as to the effect of the cancellation of the Preliminary Certificate. Therefore, the Board issued a Decision on August 1, 2003, dismissed the remaining appeals as the issues raised were moot, and the five appeals were also dismissed for failing to provide additional information as requested by the Board. The Board noted that in the written submissions of the individuals who filed appeals, they continued to express concerns about the impact of the Town on their water supplies. The Board was satisfied that the *Water Act* contains mechanisms to address these concerns with respect to the existing uses of water by the Town. The Town is still required to operate within the terms of its existing licences, and it does not have the authority to divert any more water than it did prior to the application for the Preliminary Certificate.

Cite as: *Hudson et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Town of Sexsmith* (1 August 2003), Appeal Nos. 02-093, 094, 102, 103, 122, 127, 128, 129, 134, and 135-D (A.E.A.B.).

02-121, 02-125, 02-126 and 02-130

Appellant(s) - Mr. Gordon and Ms. Joan Scarlett, Mr. Grant Berg, Mr. Ray and Ms. Marion Braumberger, and Mr. Ernie and Ms. Louise Braumberger, **Operator** - Town of Sexsmith, **Location** - near Sexsmith, **Type of Appeal** - Discontinuance of Proceedings

Between December 16 and 30, 2002, the Board received 14 appeals in relation to Preliminary Certificate No. 00156592-00-00 issued under the *Water Act* to the Town of Sexsmith stating that they will receive a licence to divert 58,200 cubic metres of water annually from the well in I.S.D 03-13-074-06-W6, for a term of five years with priority no. 2002-05-13-002, upon compliance with certain conditions in the Certificate. Four of the appeals were filed by Mr. Gordon and Ms. Joan Scarlett (02-121), Mr. Grant Berg (02-125), Mr. Ray and Ms. Marion Braumberger (02-126) and Mr. Ernie and Ms. Louise Braumberger (02-130). Several requests for a Stay were also received. The Board received submissions on the Stay requests and subsequently advised it would not grant a Stay as the request was premature. The Board advised it would hold an information meeting for the parties. On February 25, 2003, the Town of Sexsmith officially withdrew their application with respect to the Preliminary Certificate, and it was subsequently cancelled by Alberta Environment. The Board sought comments from the parties asking how this cancellation affected their appeal. As a result of the cancellation of the Preliminary Certificate, the Board received letters from the Appellants withdrawing their Notices of Appeal. As a result, the Board issued a Discontinuance of Proceedings on April 10, 2003, and closed its file.

Cite as: *Scarlett et al. v. Director, Northern Region, Regional Services, Alberta Environment re: Town of Sexsmith* (10 April 2003), Appeal Nos. 02-121, 125, 126 and 130-DOP (A.E.A.B.)

02-131 and 02-140

Appellant(s) - Mr. Allan Blomme, **Operator** - Laurence Marketing Group Ltd. and Mr. Allan Blomme, **Location** - Okotoks, **Type of Appeal** - Active

On December 23, 2002, the Board received a Notice of Appeal from Mr. Allan Blomme appealing Enforcement Order No. 2002-WA-03, issued to The Laurence Marketing Group Ltd. and Mr. Allan Blomme for an alleged contravention of sections 36(1) and 142(1)(h) of the *Water Act* R.S.A. 2000, c. W-3, by conducting an activity without an Approval at Plan 8911194, Block 1, (Wilderness Campground) in Okotoks, Alberta. The Board held a Preliminary Meeting on April 3, 2003 and considered the following questions: 1. what is the proper onus with respect to the

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hearing of this matter; 2. what hearing procedures will be used for this hearing, including whether the hearing will be conducted in writing and what deadlines should be set?; 3. whether Alberta Environment should be required to provide "will say" statements prior to the hearing or as part of the hearing procedure?; 4. whether the Board should dismiss the appeal as requested by Alberta Environment; and 5. whether to accept the Notice of Appeal filed by Mr. Allan Blomme on behalf of the Lauence Marketing Group.

As of March 31, 2004, the Board's decision is outstanding.

02-139

Appellant(s) – Mr. Ian Skinner, **Operator** – Consolidated Concrete Ltd., now Inland Aggregates Ltd., **Location** – County of Sturgeon, **Type of Appeal** – Decision

On December 24, 2002, the Environmental Appeal Board received a Notice of Appeal from Mr. Ian Skinner appealing Temporary Permit No. 16707-2 to Consolidated Concrete Ltd., now Inland Aggregates Limited under the *Water Resources Act*, authorizing the diversion of water up to 891 acre-feet (242 million Canadian gallons) from an aquifer in E1/2 20-54-26-W4M for the purpose of drainage. On April 7, 2003, the Board advised there was no right to appeal a Temporary Permit. Further, it appeared to the Board that the Temporary Permit had expired. The Board therefore, advised the parties that the appeal would be dismissed unless the Appellant, Permit Holder, or Alberta Environment could provide information to the contrary. None of the parties responded to the Board's request and therefore, the Board issued a Decision on April 7, 2003, dismissing the appeal.

Cite as: *Skinner v. Director, Alberta Environment re: Consolidated Concrete Ltd.* (7 April 2003), Appeal No. 02-139-D (A.E.A.B.).

02-141 and 02-142

Appellant(s) – Mikisew Cree First Nation., **Operator** – Mikisew Cree First Nation., **Location** – Municipality of Wood Buffalo, **Type of Appeal** – Active

On February 12, 2003, the Board received a Notice of Appeal from Ms. Bonnie Evans, Director of Industrial Relations, on behalf of the Mikisew Cree First Nation or objecting to the entirety of Approval No. 00151636-00-00 and Licence No. 00190012-00-00, issued under the *Water Act*, R.S.A. 2000, c. W-3, to TrueNorth Energy L.P. The Approval authorizes the development of the Fort Hills Oil Sands Processing Plant and Mine and the Licence authorizes the construction of a proposed water intake at SE 11-096-11-W4 in the municipality of Wood Buffalo. On September 9, 2003, the Board advised the Parties that it would be dismissing the appeal of *Water Act* Approval No. 00151636-00-00 as the appeal was filed out of time. The Board also advised that *Water Act* Licence No. 00190012-00-00 would be dismissed as the Board found that the Alberta Energy and Utilities Board adequately dealt with all matters included in the Notice of Appeal. Lastly, the Board informed the Parties that written reasons would follow in due course.

As of March 31, 2004, these appeals are outstanding.

02-143 and 02-151

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Appellant(s) - Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. and F.W. (Fritz) Seidel, **Operator** - Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd., **Location** - near Cochrane, **Type of Appeal** - Report and Recommendations

On February 13, 2003, the Environmental Appeal Board received a Notice of Appeal from Mr. Richard and Ms. Connie Blair and Lazy H Trail Company Ltd. with respect to Licence No. 00154141-00-00 (the "Licence") issued under the *Water Act* to Mr. and Ms. Blair and Lazy H Trail Company Ltd., authorizing the diversion of 8,461 cubic metres of water annually from Production Wells No. CW1-91 and CW2-01, located in the NW 25-026-07-W5M for the purpose of Industrial Camp (British Army Training Unit Suffield Water Supply), near Cochrane Alberta. On March 14, 2003, the Board also received a Notice of Appeal from Mr. F. W. (Fritz) Seidel requesting that he be permitted to participate in the appeal. Mr. Seidel advised that he had filed a Statement of Concern with Alberta Environment with respect to the Licence, but later withdrew the Statement of Concern. The Board contacted Mr. Colone and Ms. Cheryle Trudgeon, Mr. Randall and Ms. Joan Coleman, and Mr. Bryne and Ms. Anne Weerstra, notifying them of the appeals, as they had been named in the Licence as persons to be provided with information regarding monitoring and reporting. The Board then scheduled a mediation meeting involving all parties to be held in Cochrane, Alberta. However, prior to the mediation meeting the Board received a letter from Mr. and Ms. Blair requesting the appeal of Mr. Seidel be dismissed. The Board held a Preliminary Meeting on April 24, 2003, to deal with the objections of Mr. and Ms. Blair. After hearing the arguments of the parties at the Preliminary Meeting, the Board denied Mr. and Ms. Blair's request to dismiss Mr. Seidel's Notice of Appeal. The Board held the mediation meeting on April 30, 2003, in Cochrane, Alberta, following which a resolution was reached by the parties. On May 8, 2003, the Board issued a Report and Recommendations to the Minister recommending he accept the resolution. The Minister accepted the Board's recommendation on May 13, 2003.

Cite as: *Blair et al. v. Director, Southern Region, Regional Services, Alberta Environment* re: *Richard and Connie Blair and Lazy H Trail Company Ltd.* (08 May 2003), Appeal Nos. 02-143 and 02-151-R (A.E.A.B.).

02-144

Appellant(s) - Phillips Petroleum Resources Ltd. and Sharp Environmental (2000) Ltd., **Operator** - Phillips Petroleum Resources Ltd., **Location** - Municipal District of Big Lakes, **Type of Appeal** - As Listed

Overview - On February 14, 2003, the Environmental Appeal Board received a Notice of Appeal from Phillips Petroleum Resources Ltd. and Sharp Environmental (2000) Ltd. regarding the refusal of the Inspector, Northern Region, Regional Services, Alberta Environment to issue a Reclamation Certificate to Phillips Petroleum Resources Ltd. with respect to the GAO et al Kenzie 6-15-75-18-W5M well in the Municipal District of Big Lakes.

02-144-ID1 - The Board held a mediation meeting in Slave Lake, Alberta on April 11, 2003, which was unsuccessful. However, the parties made a joint recommendation to the Board on the issue to be heard at the hearing. On April 28, 2003, the Board issued a Decision accepting the recommendation of the parties that the issue to be addressed at the hearing would be "Interpretation of Alberta Environment's criteria dealing with soil textural classes, comparing the control and the wellsite, access road, and campsite."

Cite as: Preliminary Issue: *Phillips Petroleum Resources Ltd. v. Inspector, Northern Region, Regional Services, Alberta Environment* (28 April 2003), Appeal No. 02-144-ID1 (A.E.A.B.).

02-144-DOP - The Board scheduled a hearing for June 4, 2003. However, the Board received a request from Conoco Phillips Canada for an abeyance of the appeal in order to pursue further mediation toward a resolution of the appeal. The Board granted the request and re-scheduled the hearing for July 25, 2003. Conoco Phillips Canada subsequently withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on June 25, 2003 and closed its files.

Cite as: *Phillips Petroleum Resources Ltd. v. Inspector, Northern Region, Regional Services, Alberta Environment* (25 June 2003), Appeal No. 02-144-DOP (A.E.A.B.).

02-145

Appellant(s) - Town of Picture Butte, **Operator** - Town of Picture Butte, **Location** - Picture Butte, **Type of Appeal** - Report and Recommendations

The Board received a Notice of Appeal on February 28, 2003, from the Town of Picture Butte with respect to Approval No. 1064-02-00 issued to the Town of Picture Butte, authorizing the construction, operation and reclamation of a waterworks system for the Town of Picture Butte. A mediation meeting was held on April 9, 2003, and following productive and detailed discussions, the parties reached an interim agreement. The parties agreed to hold the appeal in abeyance until October 25, 2003, with a status report due from Alberta Environment at that time. On October 24, 2003, the Board received a letter from Alberta Environment, which contained another offer for the Appellant, whereby, during a conference call the day after, the Appellant accepted the offer. On November 14, 2003, the Board issued a Report and Recommendations requesting the Minister vary the approval in accordance with Alberta Environment's offer letter and the Appellant's acceptance letter. The Minister approved the Report and Recommendations on December 2, 2003.

Cite as: *Town of Picture Butte v. Director, Southern Region, Regional Services, Alberta Environment* (14 November 2003), Appeal No. 02-145-R (A.E.A.B.).

02-146-148

Appellant(s) - Mr. Dean and Ms. Verna Hart, Mr. Randy and Ms. Betty Landis, Ms. Stella Hart and Cattlemen's A.I. Ltd. and Mr. Michael Hart, **Operator** - Ducks Unlimited Canada, **Location** - near Hanna, **Type of Appeal** - Discontinuance of Proceedings

Between March 10 and March 17, 2003, the Board received Notices of Appeal from Mr. Dean and Ms. Verna Hart, Ms. Stella Hart and Cattlemen's A.I. Ltd., Mr. Randy and Ms. Betty Landis, Mr. Michael Hart, with respect to Licence Amendment No. 00036350-00-01 issued under the *Water Act* to Ducks Unlimited Canada, authorizing changes to: the source of supply and point of diversion; the gross diversion; and the reservoir capacity. The Board began processing the appeals, however, received a request from Alberta Environment to dismiss the appeals on the basis that the appeals were not properly before the Board and the individuals who filed the appeals were not directly affected by the Licence Amendment. Alberta Environment also stated that there had been no changes in the water rights granted to Ducks Unlimited and that the Licence Amendment is merely an administrative clarification. Finally, Alberta Environment stated that the remedy sought by the Appellants was in relation to the priority system under the

Water Act, and there was no new impact that resulted from the Licence Amendment. The Board scheduled a preliminary meeting via written submissions to address Alberta Environment's motion. After considering the submissions of the parties, the Board concluded that it may be more appropriate to deal with the appeals by way of mediation. In consultation with the parties, the Board scheduled a mediation on July 21, 2003, in Airdrie, Alberta. An agreement was subsequently reached between Ducks Unlimited and the Appellants that resulted in the Appellants withdrawing their appeals. As a result, the Board issued a Discontinuance of Proceedings on August 29, 2003, and closed its file.

Cite as: *Hart et al. v. Director, Southern Region, Regional Services, Alberta Environment*, re: *Ducks Unlimited Canada* (29 August 2003), Appeal Nos. 02-146-02-149-DOP (A.E.A.B.).

02-150

Appellant(s) - Mr. David Kingcott, **Operator** - Ducks Unlimited Canada, **Location** - near Hanna, **Type of Appeal** - Decision

The Board received Notices of Appeal from Mr. Dean and Ms. Verna Hart (02-146) on March 10, 2003, Ms. Stella Hart and Cattlemen's A.I. Ltd. (02-147) on March 12, 2003, Mr. Randy and Ms. Betty Landis (02-148) on March 13, 2003, Mr. Michael Hart (02-149) on March 12, 2003, and Mr. David Kingcott (02-150) on March 17, 2003, with respect to Licence Amendment No. 00036350-00-01, issued under the *Water Act*. The Amending Licence was issued to Ducks Unlimited Canada, authorizing the change of the source of supply and point of diversion, change in the gross diversion, change in the reservoir capacity to supersede existing plans near Hanna, Alberta. The Board began processing the appeals, however, the Board received a request from Alberta Environment to dismiss the appeals citing that there have been no changes in the water rights granted to Ducks Unlimited and that the Licence Amendment is merely an administrative clarification. Secondly, the Director stated, the remedy sought by the Appellants is in relation to the priority system under the *Water Act*. Finally, the Appellants are not directly affected as the Amendment is merely administrative in nature and there is no "new" impact from the Licence Amendment. The Board scheduled a preliminary meeting via written submissions to address Alberta Environment's motion. The Board received written submissions from all of the Appellants except Mr. Kingcott. Despite several attempts to contact Mr. Kingcott, a response was not received by the Board. The Board therefore issued a Decision on June 12, 2003, dismissing Mr. Kingcott's appeal for failing to respond to the Board in a timely manner.

Cite as: *Kingcott v. Director, Southern Region, Regional Services, Alberta Environment*, re: *Ducks Unlimited Canada* (12 June 2003), Appeal No. 02-150-D (A.E.A.B.)

02-152, 03-001, 002, 003, 005 and 006

Appellant(s) - County of Grande Prairie No. 1, Mr. Ernie Bartsch, Mr. Brock Smith, Mr. Allan Greber, Mr. David Lowen and Mr. Sidney Hogg, **Operator** - Slave River Exploration Ltd. **Location** - near Hyth, **Type of Appeal** - Active

The Board received Notices of Appeal from the County of Grande Prairie No. 1, Mr. Ernie Bartsch, Mr. Brock Smith, Mr. Allan Greber, Mr. David Lowen and Mr. Sidney Hogg, appealing Licence No. 00192607-00-00, issued under the *Water Act* R.S.A. 2000, c. W-3 to Slave River Exploration Ltd. The Licence authorizes the diversion of 36,500 cubic metres of water annually from the well in LSD 05-30-073-12-W6 for the purpose of industrial (injection) near Hythe,

Alberta. The Board scheduled a written submission process to deal with preliminary motions received from Alberta Environment. However, the Board decided that prior to making and determination on the preliminary motions relating to the validity of the appeals and the Stay requests, it would like to hold a mediation meeting in order to assist the parties in reaching a resolution of the appeals. The Board held a mediation meeting on July 28, 2003, in Grande Prairie, Alberta. A resolution was reached by Messrs. Coutts, Greber, Slave River Exploration Ltd. and Alberta Environment, however, the appeals of the County of Grande Prairie No. 1, Mr. Smith and Mr. Hogg were unresolved. As a result, the Board began the appeal process regarding the unresolved appeals by addressing outstanding preliminary motions. Previously, all parties submitted written submissions, and based on these submissions, the Board determined that the only valid Appeal before the Board was filed by Mr. Hogg, as he submitted a valid Statement of Concern. On November 7, 2003, the Board received correspondence advising that Midnight Oil & Gas Ltd. acquired Slave River Exploration Ltd. On November 13, 2003, the Board granted an abeyance to April 15, 2004 to allow Midnight Oil & Gas Ltd. to explore an alternate, non-potable water alternative to the project.

As of March 31, 2004, these appeals are outstanding.

Note: Although a resolution was reached at the mediation meeting, the Board must conclude the unresolved appeals before it can close its file regarding this matter.

03-004

Appellant(s) - Mr. Ben Gadd, **Operator** - Cardinal River Coal Ltd., Cheviot and Luscar Mine, **Location** - Cadomin, **Type of Appeal** - Discontinuance of Proceedings

On April 11, 2003, the Board received a Notice of Appeal from Mr. Ben Gadd with respect to a decision made by Alberta Environment that the Appellant was not directly affected by the private haulroad near Cadomin, Alberta, which was applied for by Cardinal River Coal Ltd., Cheviot and Luscar Mines. The Board began processing the appeal, however it received a request from Alberta Environment to dismiss the appeal for being premature since a decision had not yet been made with respect to the application. The Board scheduled a written submission process to address the request to dismiss the appeal. The Board also received a request from the Appellant for an abeyance in order to allow the parties to work toward a resolution of the appeal. The Appellant subsequently withdrew his appeal and as a result, the Board issued a Discontinuance of Proceedings on May 16, 2003 and closed its files.

Cite as: Gadd v. Director, Central Region, Regional Services, Alberta Environment re: Cardinal River Coal, Cheviot and Luscar Mine (16 May 2003), Appeal No. 03-004-DOP (A.E.A.B.).

03-007

Appellant(s) - Ms. Nancy Hohnstein, **Operator** - Nor-Chris Holdings Inc., **Location** - Parkland County, **Type of Appeal** - Discontinuance of Proceedings

On April 30, 2003, the Board received a Notice of Appeal from Ms. Nancy Hohnstein with respect to Approval No. 00189558-00-00 issued under the *Water Act* to Nor-Chris Holdings Inc. authorizing the construction, operation and maintenance of works for storm water management for Atim Creek Estates, Stage 1, in Parkland County, Alberta. The Board began processing the appeal, however, Nor-Chris Holdings Inc. requested the appeal be held in abeyance in order to

allow the parties to pursue discussions with a view towards resolution. The parties agreed to provide the Board with status reports on a regular basis. Subsequently, Ms. Hohnstein agreed to withdraw her appeal on the condition that Nor-Chris Holdings Inc. amend their plans. Nor-Chris Holdings Inc. applied to Alberta Environment to amend their approval in order to satisfy Ms. Hohnstein's concerns and her appeal. Alberta Environment approved the amendment and on August 1, 2003, the Board issued a Discontinuance of Proceedings and closed its files.

Cite as: *Hohnstein v. Director, Central Region, Regional Services, Alberta Environment* re: *Nor-Chris Holdings Inc.* (1 August 2003), Appeal No. 03-007-DOP (A.E.A.B.).

03-008

Appellant(s) - Mr. Doug McCoy, **Operator** - Doug McCoy, **Location** - Clyde, **Type of Appeal** - Discontinuance of Proceedings

On May 13, 2003, the Board received a Notice of Appeal from Mr. Clyde McCoy on behalf of Mr. Doug McCoy with respect to Licence No. 00194883-00-00 issued to Mr. Doug McCoy, authorizing the diversion of 611 cubic metres of water annually from the well in SE 24-060-25-W4, in Clyde, Alberta for agricultural purposes. After discussions between the Appellant and Alberta Environment, on June 4, 2003, the Board received a telephone message from the Appellant advising that he did not "need to appeal anymore". The Board responded by confirming with the Appellant that the appeal would therefore be withdrawn and requested the Appellant contact the Board immediately if this was not the case. No further response was received from the Appellant. Therefore, the Board issued a Discontinuance of Proceedings on June 13, 2003, and closed its files.

Cite as: *McCoy v. Director, Northern Region, Regional Services, Alberta Environment* (13 June 2003), Appeal No. 03-008-DOP (A.E.A.B.).

03-009

Appellant(s) - Town of Valleyview, **Operator** - Town of Valleyview, **Location** - near Valleyview, **Type of Appeal** - Decision

On June 16, 2003, the Board received a Notice of Appeal from the Town of Valleyview appealing Licence No. 00080224-00-00 issued under the *Water Act* to the Town of Valleyview, authorizing the diversion of up to 668,400 cubic metres of water annually from the Little Smoky River at SE 12-70-22-W5M near Valleyview, Alberta. The time period in which an appeal may be filed with the Board with respect to a water licence is 30 days, unless the Board finds there is sufficient reason for extending this filing period. The Board requested that the Town provide reasons as to why the Board should extend the time limit for filing the appeal. After reviewing the reasons provided by the Town, the Board found that the Town did not present sufficient reasons to demonstrate that special circumstances existed to warrant an extension of the time limit. Therefore, the Board issued a Decision on August 1, 2003, dismissing the appeal for it being filed outside the time limit.

Cite as: *Town of Valleyview v. Director, Northern Region, Regional Services, Alberta Environment* (1 August 2003), Appeal No. 03-009-D (A.E.A.B.).

03-010

Appellant(s) - Mr. Michael Monner, **Operator** - New Dale Hutterian Brethren, **Location** - near Milo, **Type of Appeal** - Active

On July 7, 2003, the Board received a Notice of Appeal from Mr. Michael Monner with respect to Approval No. 00136848-00-00 issued under the *Water Act* to New Dale Hutterian Brethren. The Approval authorizes operation and drainage works on an unnamed water body, tributary to Indian Lake, near Milo. On July 2, 2003, the Board received a Stay request from Mr. Monner. The Board held a mediation in Vulcan, Alberta on August 1, 2003, and the participants agreed to schedule a further mediation for October 7, 2003. The second meeting was cancelled as the Approval Holder did not wish to attend the mediation or a future hearing on this matter, as he advised the Approval could be cancelled. The Parties continued with settlement discussions, however, the Board scheduled a hearing of this appeal for January 14, 2004, to rectify the appeal. However, the hearing was rescheduled to January 27th, 2003, due to scheduling difficulties. Requests for intervention were received from the Siksika Nation, Alberta Transportation and Vulcan County, and the Board granted them an opportunity to comment prior to the Board making its final decision. The Board also granted these intervenors full party status at the hearing. At the hearing, the Appellant and Siksika Nation requested a Stay of the Approval, and issues regarding jurisdiction, and the Board requested written submissions from the Parties and is in the process of finalizing these submissions.

As of March 31, 2004, this appeal is outstanding.

03-011

Appellant(s) - The County of Warner No. 5, **Operator** - Alberta Transportation, **Location** - County of Warner, **Type of Appeal** - Discontinuance of Proceedings

On June 30, 2003, the Board received a Notice of Appeal from the County of Warner No. 5 appealing Approval No. 00198269-00-00 to Her Majesty the Queen in Right of Alberta as Represented by the Minister of Transportation, authorizing the construction of a drainage ditch in the County of Warner. The Board began processing the appeal, however, the Board received a letter from the Appellant on July 14, 2003, withdrawing the appeal. As a result, the Board issued a Discontinuance of Proceedings on July 18, 2003, and closed its files.

Cite as: *County of Warner No. 5 v. Director, Southern Region, Regional Services, Alberta*
Alberta Environment re: Alberta Transportation (16 July 2003), Appeal No. 03-011- DOP (A.E.A.B.).

03-012

Appellant(s) - Mr. Brian Navrot, **Operator** - Anadarko Canada Corporation, **Location** - near St. Paul, **Type of Appeal** - Discontinuance of Proceedings

On July 8, 2003, the Board received a Notice of Appeal from Mr. Brian Navrot, a landowner, with respect to Reclamation Certificate No. 00183533-00-00, issued to Anadarko Canada Corporation. The appeal was in connection with or incidental to the Norwest Owlseye 9-34-58-9 W4M well, near St. Paul, Alberta. The Board held a mediation meeting on August 26, 2003, and as a result, Mr. Navrot withdrew his appeal. The Board issued a Discontinuance of Proceedings on September 10, 2003, and closed its file.

Cite as: *Navrot v. Inspector, Northern Region, Regional Services, Alberta Environment re: Anadarko Canada Corporation* (10 September 2003), Appeal No. 03-012-DOP (A.E.A.B.).

03-013

Appellant(s) - Mr. Mel Gray, **Operator** - Bar Kay Cee Club, **Location** - M.D. of Foothills No. 31, **Type of Appeal** - Discontinuance of Proceedings

On July 4, 2003, Mr. Mel Gray filed a Notice of Appeal with the Board with respect to Approval No. 186939-00-00 issued to the Bar Kay Cee Club, authorizing the construction, operation and reclamation of a waterworks system for the Bar Kay Cee Club subdivision in the Municipal District of Foothills No. 31. The Board began processing the appeal and, in consultation with the parties, scheduled a hearing of the appeal for September 10, 2003 in Calgary. On August 18, 2003, the Board received a letter from Mr. Gray withdrawing his appeal as a result of a meeting with Alberta Environment. The Board issued a Discontinuance of Proceedings on August 29, 2003, and closed its file.

Cite as: *Gray v. Director, Southern Region, Regional Services, Alberta Environment re: Bar Kay Cee Club* (29 August 2003), Appeal No. 03-013 (A.E.A.B.).

03-014-019, 021-027, 029-038 and 082

Appellant(s) - Ms. Linda Covey, Ms. Elin Barlem, Mr. J. Mark Barlem, Ms. Margaret Baycroft, Mr. Bill and Ms. Linda Biggart, Mr. Leo E. Carter, Ms. Judy Hudson, Mr. Robert Lewis, Mr. Ron Macdonald, Ms. Margaret Medak, Ms. Laurie Miller, Mr. Randy Miller, Mr. Len Plummer, Ms. Karen Strong, Mr. Laurence Strong, Ms. Leah Wile, Ms. Laurie Zaleschuk, Ms. Dixie and Mr. Kevin Ingram, Mr. Robert Miller, Mr. Larry and Ms. Elenor Brown, Mr. Sydney and Ms. Myrtle Quartly, Mr. Mr. William and Ms. Doreen Thomsen, Mr. William Froling, Ms. Jean Veldkamp and Mr. Howard Milligan **Operator** - Mr. Hal Willis, **Location** - Innisfail, **Type of Appeal** - as listed below.

Overview - On July 22 and 23, 2003, the Board received 26 Notices of Appeal and requests for a Stay in relation to Water Act Approval 00193447-00-00 issued under the *Water Act* to Mr. Hal Willis. The Approval authorizes the placement of clean fill on property adjoining Dodds Lake at SW 28-35-28-W4M in Innisfail, Alberta. The purpose of placing the fill is to allow for the construction of a housing development.

Decision - The Board wrote to the parties on August 14, 2003 and September 19, 2003 regarding the Stay and requested submissions. On October 24, 2003, the Board wrote to the parties granting a temporary Stay on the basis that, *prima facie*, at least one of the Appellants are directly affected. A Preliminary Meeting was held on December 16, 2003 to decide the directly affected status of the Appellants, whether the Board should extend or release the Stay, whether the Government has participated in a public review under the *Canadian Environmental Assessment Act* (Canada) in respect of all of the matters included in the Notices of Appeal as the Board notes it has received correspondence from Ms. Covey indicating that she has been in contact with the Department of Fisheries and Oceans; and the issues to be heard at a hearing should one be held. After receiving written submissions and hearing evidence at the Preliminary Meeting, on February 2, 2004, the Board notified the parties that: 1. the Stay of the Approval will remain in place until the Minister of Environment releases his decision; 2. the matter was not the subject of a *Canadian Environmental Assessment Act* review; 3. the following appeals and Appellants have

been dismissed: Ms. Linda Covey 03-014, Ms. Elin H. Barlem 03-015, Mr. J. Mark Barlem 03-016, Mr. Bill and Ms. Linda Biggart 03-018, Mr. Leo E. Carter 03-019, Ms. Judy Hudson 03-021, Mr. Robert R. Lewis 03-022, Mr. Ron MacDonald 03-023, Mr. Len Plummer 03-027, Ms. Karen Strong 03-029, Mr. Laurence Strong 03-030, Ms. Laurie Zaleschuk 03-032, Mr. Robert J. Miller 03-034, Mr. Larry and Ms. Eleanor Brown 03-035, Mr. Sydney and Ms. Myrtle Quartly 03-036, Mr. William Froling 03-038, and Ms. Jean Veldcamp and Mr. Howard Milligan 03-082; and 4. the following appeals and Appellants are directly affected and their appeals will proceed to a hearing: Ms. Margaret Baycroft 03-017, Ms. Margaret E. Medak 03-024, Ms. Laurie A. Miller 03-025, Mr. Randy Miller 03-026, Ms. Leah Wile 03-031, Ms. Dixie and Mr. Kevin Ingram 03-033, and Mr. William and Ms. Doreen Thomsen 03-037. On March 23, 2004, the Board notified the parties that the only issue to be heard at the Hearing would be "Has the Director properly considered the issue of water quality impacts in issuing the Approval to place fill in the specified location."

Report and Recommendations - The Board held a Hearing on April 13, 2004 to hear from the Appellants (Ms. Margaret Baycroft (03-017), Ms. Margaret E. Medak (03-024), Ms. Laurie Miller (03-025), Mr. Randy K. Miller (03-026), Ms. Leah Wile (03-031), Ms. Dixie and Mr. Kevin Ingram (03-033), and Mr. William and Ms. Doreen Thomsen (03-037)), Alberta Environment and Mr. Hal Willis. The Board heard from the parties on whether Alberta Environment properly considered the water quality impacts on Dodd's Lake when issuing the Approval. After reviewing all of the evidence and submissions provided by the parties, the Board concluded the real concern of the Appellants was the current water quality in Dodd's Lake, which has no connection to the placement of fill allowed under the Approval. The Appellants also argued the Approval would interfere with their attempts to increase the water levels in the lake. The Board rejected this argument. The Board found that Alberta Environment had adequately considered the potential impacts on the water quality in Dodds Lake. Therefore, the Board issued a Report and Recommendations on May 12, 2004 to the Minister and he approved on May 17, 2004.

Cite as: *Baycroft et al. v. Director, Central Region, Regional Services Alberta Environment re: Hal Willis* (12 May 2004), Appeal Nos. 03-017, 024-026, 031, 033, and 03-037-R (A.E.A.B.)

03-020

Appellant(s) - Ms. Davina Daly, **Operator** - Mr. Hal Willis, **Location** - Innisfail, **Type of Appeal** - Discontinuance of Proceedings

On July 22, 2003, the Board received a Notice of Appeal from Ms. Davina Daly with respect to Approval No. 00193447-00-00 issued to Mr. Hal Willis, authorizing placement of clean fill on property adjoining Dodd's Lake located in Block F, Plan P, SW 28-35-28-W4M in Innisfail, Alberta. The Board received 27 Notices of Appeal appealing the Approval, including Ms. Davina Daly. The Board began processing the appeals. However, the Board received a letter from Ms. Daly advising that she wished to withdraw her appeal. As a result, the Board issued a Discontinuance of Proceedings on September 25, 2003, and closed its file.

Cite as: *Daly v. Director, Central Region, Regional Services, Alberta Environment re: Hal Willis* (25 September 2003), Appeal No. 03-020-DOP (A.E.A.B.).

03-028

Appellant(s) - Mr. R.C. (Dick) Sifton, **Operator** - Mr. Hal Willis, **Location** - Innisfail, **Type of Appeal** - Discontinuance of Proceedings

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The Board received 26 Notices of Appeal in relation to the Approval No. 00193447-00-00 issued to Mr. Hal Willis, authorizing placement of clean fill on property adjoining Dodd's Lake located in Block F, Plan P, SW 28-35-28-W4M. The Board received a Notice of Appeal and Stay of the Approval from Mr. R.C. (Dick) Sifton on July 22, 2003. Shortly after the Board began processing appeals, Mr. Sifton withdrew his appeal as he had moved from the Innisfail area. As a result, on November 12, 2003, the Board issued a Discontinuance of Proceedings and closed its file.

Cite as: *Sifton v. Director, Central Region, Regional Services, Alberta Environment* re: Hal Willis (12 November 2003), Appeal No. 03-028-DOP (A.E.A.B.).

03-039

Appellant(s) - Mr. Bill and Ms. Linda Biggart, **Operator** - Town of Innisfail, **Location** - Innisfail, **Type of Appeal** - Decision

On July 22, 2003, the Board received a Notice of Appeal from Mr Bill and Ms. Linda Biggart with respect to Approval No. 00076694-00-00 issued on March 3, 2000, under the *Water Act* to the Town of Innisfail, for the purpose of constructing flood control works at NW 28-35-28-W4M at Dodd's Lake near Innisfail, Alberta. The time period in which an appeal may be filed with the Board with respect to a *Water Act* approval is 7 days, unless the Board finds there is sufficient reason for extending this filing period. In this case, the Notice of Appeal was filed in excess of three years after the expiry of the appeal period. The Board requested that the Biggarts provide reasons as to why the Board should extend the time limit for filing the appeal. After reviewing the reasons provided, the Board found the Biggarts did not present sufficient reasons to demonstrate that special circumstances existed to warrant an extension of the time limit. As a result, the Board issued a Decision on November 24, 2003, dismissing the appeal.

Cite as: *Biggart v. Director, Central Region, Regional Services, Alberta Environment* re: Town of Innisfail (24 November 2003), Appeal No. 03-039-D (A.E.A.B.).

03-059

Appellant(s) - Mr. John Chase, **Operator** - Town of Innisfail, **Location** - Innisfail, **Type of Appeal** - Discontinuance of Proceedings

On April 24, 2003, Alberta Environment issued *Water Act* Amending Approval No. 00076694-00-01 to the Town of Innisfail amending Approval No. 00076694-00-00 to include plan number 00076694-P002 (Dodd's Lake Outlet Improvements) and plan no. 00076694-P003 (Dodd's Lake Water Level Management Plan) as they relate to the control structure constructed at the outlet of Dodd's Lake in Innisfail, Alberta. The Board received 42 Notices of Appeal, one of which was received by the Board on July 25, 2003 from Mr. John Chase, in relation to Amending Approval No. 00076694-00-01. The Board began processing the appeals. However, the Board received a telephone call from Mr. Chase (EAB 03-059) advising that he wished to withdraw his appeal. As a result, the Board issued a Discontinuance of Proceedings on September 16, 2003, and closed its file.

Cite as: *Chase v. Central Region, Regional Services, Alberta Environment* re: Town of Innisfail (16 September 2003), Appeal No. 03-059-DOP (A.E.A.B.).

03-083-114

Appellant(s) - John Dennehy, Sheila Thompson, Keith and Carol Quaife, Kelly Calkins, M. Lois Bell, Kevin O'Neil, Vern Shoemaker, Pierrette Doohan, Rae Allen, M. Smith, Hank Hendricks, Marvel Currie, Maurice Juchli, Jerry Hoshowski, Lori and Brent Mikkelsen, Darla and Jim Dragon, G. Mattock, D. Losie, Hank Hendricks, Bob Tomlinson, Brian Vanstone, H.J. Kowalchuk, K. and L. Fenemor, Harley Johnson and Lynne Staples, Andy and Darlene Davidson, Jack Lozeron, Carol Allen, J. and M. Helps, Daryl Allen, Ed and R. Karpluk, Lillian Karpoff, and Harvey Tober, **Operator** - Gregg Properties Co. Ltd., **Location** - Pigeon Lake, **Type of Appeal** - Discontinuance of Proceedings

On July 29, 2003, the Board received a Notice of Appeal from John Dennehy, Sheila Thompson, Keith and Carol Quaife, Kelly Calkins, M. Lois Bell, Kevin O'Neil, Vern Shoemaker, Pierrette Doohan, Rae Allen, M. Smith, Hank Hendricks, Marvel Currie, Maurice Juchli, Jerry Hoshowski, Lori and Brent Mikkelsen, Darla and Jim Dragon, G. Mattock, D. Losie, Hank Hendricks, Bob Tomlinson, Brian Vanstone, H.J. Kowalchuk, K. and L. Fenemor, Harley Johnson and Lynne Staples, Andy and Darlene Davidson, Jack Lozeron, Carol Allen, J. and M. Helps, Daryl Allen, Ed and R. Karpluk, Lillian Karpoff, and Harvey Tober with respect to Approval No. 00191814-00-00 issued under the *Water Act* to Gregg Properties Co. Ltd. authorizing the construction, operation and maintenance of a storm water management facility in SW 28-047-01-W5 for the purpose of collecting and draining storm water into Pigeon Lake and an unnamed tributary of Pigeon Lake, Alberta. The Board received appeals from 32 Pigeon Lake property owners appealing the Approval. The Board began processing the appeals, however, the Appellants subsequently withdrew their appeals. As a result, the Board issued a Discontinuance of Proceedings on August 15, 2003, and closed its file.

Cite as: *Dennehy et al. v. Director, Central Region, Regional Services, Alberta Environment re: Gregg Properties Co. Ltd.* (15 August 2003), Appeal Nos. 03-083-114-DOP (A.E.A.B.).

03-115

Appellant(s) - RD Flush Systems Ltd. and Jacob Martens, **Operator** - RD Flush Systems Ltd. and Jacob Martens, **Location** - Red Deer, **Type of Appeal** - Active

On July 31, 2003, the Board received a Notice of Appeal from RD Flush Systems Ltd. and Jacob Martens with respect to Enforcement Order No. EO-2003/03-CR issued to RD Flush Systems Ltd. and Jacob Martens. The Appellants and Alberta Environment are currently in discussions to resolve this appeal.

As of March 31, 2004, this appeal is currently outstanding.

03-116 and 03-118-123

Appellant(s) - Mountain View Regional Water Services Commission, Mr. Gerald Oxtoby, City of Red Deer Mr. Terry Little, Mr. Kelly Smith, Butte Action Committee and Mr. Mike Gallie, **Operator** - Capstone Energy, **Location** - near Red Deer, **Type of Appeal** - As noted below

Overview: Between August 15 and September 8, 2003, The Board received Notices of Appeal from the Mountain View Regional Water Services Commission, Mr. Gerald Oxtoby, the City of Red Deer, Mr. Terry Little, Mr. Kelly Smith, the Butte Action Committee, and Mr. Mike Gallie (collectively the "Appellants") with respect to Preliminary Certificate No. 00198509-00-00. The Preliminary Certificate was issued under the *Water Act* to Capstone Energy Ltd. which allows for the diversion of 328,500 m³ of water annually from the Red Deer River by way of an infiltration well in the fluvial gravel formation in SW 4-36-1-W5M near Red Deer, Alberta, for the purpose of oilfield injection.

03-116 and 03-118-123-ID1: The Board held a preliminary meeting to determine if the parties that filed the appeals were directly affected; to determine the issues to be considered at the hearing of these appeals; to consider an application for interim costs; and to determine whether the appeal filed regarding the Director's decision to reject a statement of concern was properly before the Board. After reviewing the submissions and oral arguments provided by the parties, the Board found the Mountain View Regional Water Services Commission, Mr. Gerald Oxtoby, the City of Red Deer, Mr. Terry Little, and Mr. Kelly Smith directly affected. On February 11, 2004, the Board issued a Decision dismissing Mr. Mike Gallie's appeal as he was found not directly affected, but as he could provide unique, relevant evidence, the Board made him a party to the appeals. The Butte Action Committee withdrew its request to be included as a formal appellant, and instead decided to act as Mr. Gallie's agent. Upon reviewing the submissions of the parties on the issues to be considered at the hearing of these appeals, the Board identified five main areas that the parties wished to address: purpose, protection, volume, immediate neighbours, and policy considerations. With respect to the application for interim costs, based on the information that was before it, the Board decided not to grant interim costs, but invited any of the parties to reapply with additional information. (A subsequent application for interim costs was made and granted by the Board.) The appeal of the Director's decision not to accept a statement of concern did not have to be considered. It was one of Mr. Gallie's appeals, which was dismissed as Mr. Gallie was determined not to be directly affected.

Cite as: Preliminary Motions: *Mountail View Regional Water Services Commission et al. v. Director, Central Region, Regional Services, Alberta Environment re: Capstone Energy Ltd.* (11 February 2004), Appeal Nos. 03-116 and 03-118-123-ID1 (A.E.A.B.).

03-116 and 03-118-121-R: The Appellants argue that fresh water is a scarce resource and it should not be used for oilfield injection, and believe that once fresh water is injected into the ground in this way, it is gone forever. In considering these appeals, the Board highlights the importance of fresh water; it is essential for human existence and it is a limited resource. The Board is also aware of the importance of the oil and gas industry in Alberta and the work they are undertaking to reduce their use of fresh water in keeping with the principles of sustainable development. The Board must balance the protection of our fresh water supplies with sustaining this essential element of our economy. In addition to the Appellants, the Board received intervenor requests from the Red Deer County Ratepayer Association, Ms. Dorene Rew, the Council of Canadians (Red Deer Chapter), the Normandeau Cultural and Natural History Society, and Trout Unlimited. The Board granted these groups intervenor status, and as a result, they provided evidence at the Hearing. Based on all of the evidence received in these appeals, the Board issued a Report and Recommendations on April 26, 2004, concluding that the Preliminary Certificate and Proposed Licence should be upheld, but subject to a number of changes, including a reduction in the quantity of water and a staggered, shorter term for the licence. The Board encourages the government to provide direction through an oilfield injection policy that focuses on minimizing the use of fresh water regardless of its source. In the Board's view, if fresh water is going to be used for oilfield injection, the *Water Act* requires that an alternatives analysis be conducted, looking at the technical, economic, and regulatory feasibility of the alternatives and demonstrating that the fresh water will be used not only efficiently, but as

the last option considered. In the Board's view, the amount of water allocated should be reduced to 600 m³/day, for a total allocation of 219,000 m³ annually. The reduction is consistent with evidence provided by Capstone that 150 m³/day of produced water is possibly available elsewhere and that the amount of water to be used during the first year of the project is less than peak requirements. To encourage the use of alternate water sources, before the Proposed Licence is issued, Capstone should provide Alberta Environment with a report detailing a more complete investigation of alternate water sources. Subject to certain conditions detailed in this Report and Recommendations, the amount of water finally allocated in the Proposed Licence may be further decreased if alternate water sources are available. In all of the circumstance, even though past policies are contradictory and data is lacking, the Board believes Alberta Environment did its best to consider the effects of the Proposed Licence on other users, including recreational users, and on fish and wildlife. However, as water shortages have occurred in the last number of years, and to protect our aquatic ecosystem, an additional safety margin of 10 percent should be added to the minimum residual flow level. Further, to provide additional protection to other water users, a number of the clauses in the Proposed Licence should be varied to provide greater certainty, particularly in dealing with complaints. The Board recommends that the Minister order that the term of the Proposed Licence be staggered or phased with shorter terms. In this case, the initial term should be for a one year, and the second term should also be for one year, unless an applicable plan, guideline, or change in regulations provides otherwise. If no applicable plan, guideline or change in regulations is in place after the second one year term, any subsequent renewals of the Proposed Licence should not exceed a term of three years. Every renewal of the Proposed Licence should require that an alternatives assessment be conducted based on a list of criteria that should be part of the application process. The Minister approved the Board's recommendations on May 18, 2004.

Cite as: *Mountain View Regional Water Services Commission et al. v. Director, Central Region, Regional Services, Alberta Environment re: Capstone Energy* (26 April 2004), Appeal Nos. 03-116 and 03-118-121-R (A.E.A.B.).

03-117

Appellant(s) - Mr. Dennis and Ms. Barbara Hebner, **Operator** - EPCOR Generation Inc. and EPCOR Power Development Corporation, **Location** - near Warburg, **Type of Appeal** - Active

On August 19, 2003, the Board received a Notice of Appeal from Mr. Dennis and Ms. Barbara Hebner with respect to Amending Approval No. 773-01-06 issued to EPCOR Generation Inc. and EPCOR Power Development Corporation. The Amending Approval authorizes the construction, operation and reclamation of the Genesee thermal electric power plant. According to standard practice, the Board wrote to the Natural Resources Conservation Board ("NRCB") and the Alberta Energy and Utilities Board ("AEUB") to determine if this matter had been the subject of a hearing or review under their respective legislation. The AEUB advised that the Appellants participated as intervenors in an AEUB hearing, and forwarded Decision 2001-111 for the Board's review. The AEUB also advised that they granted EPCOR an exemption to install and operate a 1.25 MW emergency standby diesel generator at Phase 3 of the Genesee Power Plant. The Board subsequently held a Preliminary Meeting on November 24, 2003 to deal with the following issues: 1. the request to dismiss the appeal; 2. the directly affected status of the Appellants; 3. whether the objection of the Appellants is with respect to land use; 4. whether the Appellants had the opportunity to participate in a hearing or review under an Act administered by the Alberta Energy and Utilities Board at which all of the matters included in the Notice of Appeal were adequately dealt with.

As of March 31, 2004, the Board's decision is pending.

03-124 and 125

Appellant(s) - Imperial Oil Limited and Devon Estates Limited, **Operator** - Imperial Oil Limited and Devon Estates Limited., **Location** - Calgary, **Type of Appeal** - Active

On September 5, 2003, the Board received two Notices of Appeal on behalf of Imperial Oil Limited and Devon Estates Limited with respect to the decision of Alberta Environment to issue Environmental Protection Order Nos. EPO-2003/02-SR and an undated accompanying letter directive from the Director, and EPO-2003/03-SR issued to Imperial Oil Limited and Devon Estates Limited in relation to the Lynnvew Ridge residential subdivision, in the City of Calgary. A mediation was held on October 27 and 28, 2003.

As of March 31, 2004, this appeal is still under mediation and is currently outstanding.

03-126

Appellant(s) - Mr. Robert A. Berrien and 766364 Alberta Ltd., **Operator** - Mr. Robert A. Berrien and 766364 Alberta Ltd., **Location** - near Okotoks, **Type of Appeal** - Discontinuance of Proceedings

On September 9, 2003, the Board received a Notice of Appeal from Mr. Robert A. Berrien and 766364 Alberta Ltd. with respect to Licence No. 989 issued under the *Water Act* to Mr. Berrien and 766364 Alberta Ltd. The licence was issued in 1967 to divert up to 65 acre-feet of water from the Highwood River in SW 05-020-28-W4 to irrigate up to 100 acres of land within the S1/2 05-020-28-W4. The Board scheduled an appeal hearing for November 21, 2001 in Calgary. However, the Board received a letter advising that Mr. Berrien wished to withdraw the appeal. As a result, the Board issued a Discontinuance of Proceedings on November 10, 2003, and closed its files.

Cite as: *Berrien v. Director, Southern Region, Regional Services, Alberta Environment* (10 November 2003), Appeal No. 03-126-DOP (A.E.A.B.).

03-127-137

Appellant(s) - Mr. Gordon Volume, Mr. Gerry and Ms. Janet Whiteside, Ms. Barbara Elaine Petrie, Ms. Barbara Fehr, Mr. David E. Drader, Ms. Linda K. Vongrad, **Operator** - Word of Life Tabernacle, **Location** - Strathcona County, **Type of Appeal** - Active

Between September 16 and 17, 2003, the Board received Notices of Appeal regarding *Water Act* Approval No. 00198139-00-00 and *Environmental Protection and Enhancement Act* Approval No. 198159-00-00 from Mr. Gordon Volume, Mr. Gerry and Ms. Janet Whiteside, Ms. Barbara Elaine Petrie, Ms. Barbara Fehr, Ms. Linda Vongrad. Mr. David E. Drader submitted a Notice of Appeal only with respect to Approval No. 198159-00-00. Approval No. 00198139-00-00 authorizes the construction of a storm water detention pond and associated drainage improvement and wetland maintenance works, subject to certain conditions. Approval No. 198159-00-00 authorizes the construction, operation and reclamation for the storm outfall structure for the

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Word of Tabernacle located in Strathcona County. The Appellants requested a Stay to this matter, and the Board requested written submissions. Upon reviewing the submissions, the Board issued a Stay of both Approvals, and scheduled a hearing for January 23, 2004. The Board was later advised that the Approval Holder sold the property in question and the new owner had no interest proceeding with the development. On January 15, 2004, Alberta Environment advised that the Director cancelled these approvals, and the Board cancelled the hearing. The Board is in the process of closing its file regarding this matter.

As of March 31, 2004, these appeals are outstanding

03-138

Appellant(s) - Ms. Dorene Rew, **Operator** - Capstone Energy Ltd., **Location** - near Red Deer, **Type of Appeal** - Decision

The Board received a Notice of Appeal from Ms. Dorene Rew on September 19, 2003, with respect to *Water Act* Preliminary Certificate No. 00198509-00-00 issued to Capstone Energy Ltd. on July 23, 2003. The Preliminary Certificate was for the diversion of water from the Red Deer River for industrial (oilfield injection) purposes at SW 4-36-1-W5M. The time period in which an appeal may be filed with the Board with respect to a Preliminary Certificate is 30 days, unless the Board finds there is sufficient reason for extending this filing period. The Board requested reasons from Ms. Rew as to why the Board should extend the time limit for filing the appeal. After reviewing the submissions provided by Ms. Rew, the Board found she did not present sufficient reasons to demonstrate that special circumstances existed to warrant an extension of the time limit. Therefore, the Board issued a Decision on October 30, 2003, to dismiss the appeal for being filed outside the prescribed time limit.

Cite as: *Rew v. Director, Central Region, Regional Services, Alberta Environment re: Capstone Energy Ltd.* (30 October 2003), Appeal No. 03-138-D (A.E.A.B.)

03-139

Appellant(s) - Mr. Brent Kelland, Ms. Susan Scott, Ms. Colleen Praud and Ms. Jill Kelland, **Operator** - Hunt Power Company of Canada Inc., **Location** - Crossfield, **Type of Appeal** - Discontinuance of Proceedings

On October 7, 2003, the Board received a Notice of Appeal, dated October 6, 2003, from Mr. Brent Kelland, on behalf of Mr. Brent Kelland, Ms. Susan Scott, Ms. Colleen Praud and Ms. Jill Kelland with respect to Approval No. 192173-00-00 issued to Hunt Power Company of Canada Inc. The Approval was for the construction, operation, and reclamation of the Crossfield Thermal Electric Power Plant in Crossfield, Alberta. The Board scheduled a Hearing for this matter, however, several weeks before the Hearing, the Appellants withdrew their appeal. As a result, the Board issued a Discontinuance of Proceedings on January 22, 2004, and closed its file.

Cite as: *Kelland et al. v. Director, Southern Region, Regional Services, Alberta Environment re: Hunt Power Company of Canada Inc.* (22 January 2004), Appeal No. 03-139-DOP (A.E.A.B.).

03-140

Appellant(s) - Calpine Canada Resources, **Operator** - Calpine Canada Resources, **Location** - near Oyen, **Type of Appeal** - Discontinuance of Proceedings

On October 16, 2003, the Board received a Notice of Appeal from Calpine Canada Resources appealing the Inspector of Environment's refusal to issue a Reclamation Certificate to Calpine Canada Resources with respect to Bowtex et al Shabbald well, located at SE Sec. 4, Twp. 28, Rge. 03, W4M, near Oyen, Alberta. The Board advised the parties that a site visit may be crucial to a successful mediation, and hence, in consultation with the parties, held the appeal in abeyance until March 2004, when an inspection could take place.

As of March 31, 2004, this appeal is outstanding.

03-141

Appellant(s) - Ms. Gwen Veer, **Operator** : Navigo Energy Inc., **Location**: near Vilna, **Type of Appeal** - Active

On October 21, 2003, the Board received a Notice of Appeal from Ms. Gwen Veer with respect to Reclamation Certificate No. NE1-03-00169 for the reclamation of the surface of the land held by Navigo Energy Inc. within TWP 61-13-W4M; Sec 18, NW 17 in connection with or incidental to the access road held under LOC 962663. Meeting pursued between the Parties and the Approval Holder agreed to remedial activity of seeding and harrowing all portions of the right-of-way (even those not touched by the initial stabilization program) in order to enhance the agronomic vegetation of any sparsely vegetated areas to take place in spring 2004. The Board requested the parties to submit a status report by March 31, 2004. The Approval Holder advised on March 31, 2004, that no work had been carried out yet, but was expected to commence late April to early May depending on weather/ground conditions.

As of March 31, 2004, this appeal is outstanding.

03-142

Appellant(s) - Mr. Charlie and Ms. Pat Johnson, **Operator** - Murphy Oil Company Ltd., **Location** - near Cherry Point, **Type of Appeal** - Discontinuance of Proceedings

On October 23, 2004, the Board received a Notice of Appeal from Mr. Charlie and Ms. Pat Johnson with respect to Reclamation Certificate No. 00186627-00-00 issued to Murphy Oil Company Ltd. for the reclamation of the Murphy et al BDYLS 15-13-84-13-W6M well. The Board advised the parties that a site visit may be crucial to a successful mediation, and hence, in consultation with the parties, held the appeal in abeyance until March 2004, when an inspection could take place.

As of March 31, 2004, this appeal is outstanding.

03-143

Appellant(s) - EnCana Corporation, **Operator** - EnCana Corporation., **Location** - near Jean Cote, **Type of Appeal** - Report and Recommendations

On October 31, 2004, the Board received a Notice of Appeal from EnCana Corporation appealing the refusal of the Director to issue a Reclamation Certificate to EnCana Corporation with respect to AEC Normandville/ AEC Tangent well located at 8-15-80-23 W5M. The Board held a mediation meeting in Peace River, Alberta on February 10, 2004, following which a resolution was reached by the parties. On February 11, 2004, the Board issued a Report and Recommendations to the Minister of Environment recommending that the Minister accept the mediation resolution. On February 26, 2004, the Minister approved the recommendation.

Cite as: *EnCana Corporation v. Inspector, Northern Region, Regional Services, Alberta Environment* (11 February 2004), Appeal No. 03-143-R (A.E.A.B.).

03-144

Appellant(s) - Castle-Crown Wilderness Coalition, **Operator** - EnCana Corporation, **Location** - near Pincher Creek, **Type of Appeal** - Active

On November 13, 2003, the Board received a Notice of Appeal from Mr. Gordon Petersen on behalf of the Castle-Crown Wilderness Coalition with respect to Amending Approval No. 18777-01-01 issued to Castle Mountain Resort Inc. for the construction, operation and reclamation of a wastewater system for the Castle Mountain Resort.

As of March 31, 2004, this appeal is outstanding.

03-145 and 03-154

Appellant(s) - Mr. Klaus Jericho and Ms. Cheryl E. Bradley, **Operator** - St. Mary River Irrigation District, **Location** - near Lethbridge, **Type of Appeal** - Active

On November 25, 2003 and January 6, 2004, the Board received Notices of Appeal from Mr. Klaus Jericho and Ms. Cheryl E. Bradley respectively, with respect to *Water Act* Licence Amendment No. 00044590-00-01 issued to St. Mary River Irrigation District. The licence is amended to change the purpose from irrigation to irrigation district purposes, the addition of conditions. The amendment limited the delivery of water under the licence for the purposes of other irrigation to a maximum of 12,000 acre feet annually, and the licensee shall not deliver water under this licence for the purpose of oil or gas recovery. On January 6, 2004, the Board received a Notice of Appeal from Ms. Cheryl E. Bradley regarding the Licence in this matter. The Board wrote to Ms. Bradley advising that the normal time limit prescribed in filing such an appeal is 30 days, and since the Licence Amendment was issued on October 30, 2003, the appeal appears to be significantly outside the time limit prescribed. Ms. Bradley was given an opportunity to provide additional information so the Board could consider extending her time to appeal. As a result of a conference call on February 12, 2004, the Board determined that March 30 and 31, 2004 should be held. At the Preliminary Meeting, the Board would like to decide whether to accept the Notice of Appeal on behalf of Mr. Jericho and the individual members of the Southern Alberta Environmental Group, and to determine their directly affected status. The Board would also like to decide whether to accept Ms. Bradley's late filed appeal and determine her directly affected status. In order to receive more substantial evidence to determine this matter, the Board decided to postpone the Preliminary Meeting to April 20, 2004.

As of March 31, 2001, these appeals are outstanding.

03-146

Appellant(s) - Messrs. Marc and Roch Bremont, **Operator** - Messrs. Marc and Roch Bremont, **Location** - Falher, **Type of Appeal** - As noted below

Overview: On December 8, 2003, the Board received a Notice of Appeal from Messrs. Marc and Roch Bremont regarding Enforcement Order No. WA-EO-2003/01-NR issued under the *Water Act* to the Bremonts for a ditch located on the NW 27-79-21-W5M.

Issues Decision: The Board decided to schedule a Hearing and requested the Bremonts provide written submissions to the Board with issues to be heard at the Hearing. Upon receipt of the written submissions, the Board issued an Issues Decision on February 4, 2004, and determined the issues to be heard at the Hearing would be 1. whether the ditch is used, operated and maintained such that it constitutes an "activity" within the meaning of the *Water Act*, and whether its continued use, operation and maintenance without an approval is a contravention of section 36(1) of the *Water Act*, and 2. whether the Director properly and reasonably exercised his discretion in issuing the Enforcement Order.

Cite as: Issues Decision: *Bremont v. Director, Northern Region, Regional Services, Alberta Environment* (04 February 2004), Appeal No. 03-146-ID1 (A.E.A.B.).

Discontinuance of Proceedings: The Board scheduled a Hearing of the appeal for March 3, 2004. However, the Appellants withdrew their appeal days before the Hearing. As a result, the Board issued a Discontinuance of Proceedings on March 1, 2004, and the Board closed its file.

Cite as: *Bremont v. Director, Northern Region, Regional Services, Alberta Environment* (01 March 2004), Appeal No. 03-146-DOP (A.E.A.B.).

03-147

Appellant(s) - Chief John Malcolm, **Operator** - ConocoPhillips Canada Resources Corp., **Location** - near Fort McMurray, **Type of Appeal** - Active

On December 11, 2003, Chief John Malcolm of the Wood Buffalo First Nation filed a Notice of Appeal with respect to Approval No. 48263-00-00 issued to ConocoPhillips Canada Resources Corp. The Approval authorizes the construction, operation, and reclamation of the Surmont enhanced recovery in-situ oil sands or heavy oil processing plant and oil production site. According to standard practice, the Board wrote to the Natural Resources Board ("NRCB") and the Alberta Energy and Utilities Board ("AEUB") to see if this matter had been the subject of a hearing or review under their respective legislation. The AEUB forwarded Approval No. 9426 issued to ConocoPhillips Canada Resource Corp., an objection letter from Chief John Malcolm, as well as two letters in relation to the AEUB's dismissal of the objection. Subsequently, the Board wished to schedule a Preliminary Meeting and requested dates from the Parties.

As of March 31, 2004, this appeal is outstanding.

03-148

Appellant(s) - Chief John Malcolm, **Operator** - OPTI Canada Inc./Nexen Canada Ltd., **Location** - Anzac, **Type of Appeal** - Active

On December 12, 2003, the Board received a Notice of Appeal from Chief John Malcolm of the Wood Buffalo First Nation with respect to Approval No. 137467-00-00 issued to OPTI Canada Inc./Nexen Canada Ltd. for the construction, operation and reclamation of the Long Lake enhanced recovery in-situ oil sands or heavy processing plant, and oil production site. The Board was advised by the Energy and Utilities Board that they received application from the Approval Holder for the Long Lake commercial sands scheme, and that the approval was approved in August 2003. The Board advised the Parties it would like to proceed with a Preliminary Meeting regarding this matter and requested dates for May 2004.

As of March, 31, 2004, this appeal is outstanding.

03-149

Appellant(s) - Mr. Dale Clearwater, **Operator** - Mr. Larry and Ms. Terri Cameron, **Location** - near Rocky Mountain House, **Type of Appeal** - Report and Recommendations

On December 18, 2003, the Board received a Notice of Appeal from Mr. Dale Clearwater regarding Licence No. 00196055-00-00 and Licence Amendment No. 00196055-00-01 issued under the *Water Act* to Mr. Larry and Ms. Terri Cameron operating as Wolf Dance Lodge. The Licence authorized water supply for the lodge at SW 04-038-07-W5 near Rocky Mountain House, Alberta. The Board held a mediation meeting in Rocky Mountain House on March 22, 2004, following which an agreement was reached by the parties. As a result, on March 24, 2004, the Board issued a Report and Recommendations to the Minister of Environment recommending the Minister accept the agreement. On March 29, 2004, the Minister approved the recommendations.

Cite as: Clearwater v. Director, Central Region, Regional Services, Alberta Environment re: Larry and Terry Cameron, o/a Wolf Dance Lodge (24 March 2004), Appeal No. 03-149 (A.E.A.B.).

03-150, 151 and 152

Appellant(s) - Mr. Ben Gadd, , **Operator** - Cardinal River Coals Ltd., **Location** - near Cadomin, **Type of Appeal** - Active

On December 9, 2003, Alberta Environment issued *Water Act* Approval No.00188589-00-00 to Cardinal River Coals Ltd. for the construction, operation and reclamation of a private haulroad located near Cadomin, Alberta. Alberta Environment issued Amending Approval Nos. 11767-01-02 and 46972-00-01 under the *Environmental Protection and Enhancement Act* for the opening up, construction, operation and reclamation of the Cheviot Haul Road located near Cadomin, Alberta. Between December 29 and January 5, 2004, the Board received three Notices of Appeal from Mr. Ben Gadd Approval (EAB 03-150) and the Amending Approvals (EAB 03-151 and EAB 03-152). On February 17, 2004 the Board informed the parties that it had scheduled a Preliminary Meeting for April 26, 2004 to hear oral arguments from the parties on the motions raised by the Approval Holder's legal counsel in his letter of January 6, 2004:(a) whether Mr. Gadd is "directly affected by the Approvals under appeal;(b) whether Mr. Gadd had the opportunity to participate in a hearing or review administered by the Energy Resources Conservation Board at which all of the pertinent matters were adequately dealt with;(c) whether the Government of Alberta participated in a public review under the *Canadian Environmental*

Assessment Act at which all of the pertinent matters were adequately dealt with; and (d) which matters raised by Mr. Gadd in the Notices of Appeal ought to be addressed during the EAB's hearing of the appeal, if an appeal proceeds."

As of March 31, 2004, these appeals are outstanding.

03-153

Appellant(s) - Mr. Myles and Ms. Lynda McLellan, **Operator** - Mr. Mark and Ms. Susan Weiss, **Location** - near Warwick, **Type of Appeal** - Report and Recommendations

On January 5, 2004, the Board received a Notice of Appeal from Mr. Myles and Ms. Lynda McLellan, regarding License No. 00193172-00-00, issued under the *Water Act* to Mr. Mark and Ms. Susan Weiss. The Licence authorizes the diversion of 613 cubic metres of water annually from the well in NW 31-053-14-W4 for agricultural purposes (stock watering) near Warwick, Alberta, subject to certain conditions. Mr. and Ms. Weiss also made application to Alberta Environment for a Licence to divert approximately 3,652 cubic metres of water annually from wells in NW 31-053-14-W4, near Warwick. The Notice of Appeal also consisted of a Statement of Concern in relation to the Licence application. On March 15, 2004, the Board held a mediation meeting in Vegreville, Alberta, following which an agreement was reached. As a result, on March 16, 2004, the Board issued a Report and Recommendations to the Minister of Environment recommending the Minister accept the conditions of the agreement. On March 19, 2004, the Minister approved the recommendations.

Cite as: *McLellan v. Director, Central Region, Regional Services, Alberta Environment* re: Weiss (16 March 2004), Appeal No. 03-153-R (A.E.A.B.)

03-155

Appellant(s) - Mr. Ron and Ms. Irene Hill, **Operator** - Mr. Ralph Biehn, **Location** - near Priddis, **Type of Appeal** - Discontinuance of Proceedings

On February 3, 2004, the Board received a Notice of Appeal from Mr. Ron and Ms. Irene Hill, dated February 1, 2004, regarding Licence No. 00197594-00-00 issued under the *Water Act* to Mr. Ralph Biehn. The Licence would construct a barrier (berm/plug) in a cut-off channel of Priddis Creek. The Board began processing the appeal, however, the Appellants decided to withdraw their appeal. As a result, the Board issued a Discontinuance of Proceedings on March 5, 2004, and closed its file.

Cite as: *Hill v. Director, Southern Region, Regional Services, Alberta Environment* re: Ralph Biehn (05 March 2004), Appeal No. 03-155-DOP (A.E.A.B.).

03-156

Appellant(s) - Gleneagles Investments Ltd. and Louison Investments Ltd., **Operator** - AES Calgary ULC, **Location** - MD of Rocky View #44, **Type of Appeal** - Active

On January 29, 2004, the Board received a Notice of Appeal from legal counsel of Gleneagles Investments Ltd. and Louison Investments Ltd. with respect to Amending Approval No. 149007-00-01 issued by Alberta Environment to AES Calgary ULC. The Amending Approval allows the

Approval Holder a one-year extension of construction of the AES Calgary Thermal Electric Power Plant. The Board wished to schedule a mediation or hearing regarding this matter, however, the Appellants advised that they would prefer a written submission process. The Board granted their request and set a schedule for the agreed statement of facts and written submissions on March 29, 2004.

As of March 31, 2004, this appeal is outstanding.

03-157

Appellant(s) - Mr. Wayne and Ms. Wendy von Hollen, **Operator** - Mr. Albert and Ms. Sjoukje van der Meer, **Location** - near Rocky Mountain House, **Type of Appeal** - Active

On February 27, 2004, the Board received a Notice of Appeal from Mr. Wayne and Ms. Wendy von Hollen with respect to *Water Act* Licence No. 0020431-00-00 issued to Mr. Albert and Ms. Sjoukje van der Meer. The Licence authorizes a diversion of 8.252 cubic metres of water annually from the well in NW 26-040-07-W5 for the purpose of Agricultural (Confined Feeding Operation) subject to certain conditions. According to standard practice, the Board wrote to the Natural Resources Conservation Board ("NRCB") and the Alberta Energy and Utilities Board ("AEUB") and asked whether this matter had been the subject of a hearing or review under their respective legislation. The NRCB later advised the Board that NRCB Registration RA 02008 was issued on August 9, 2002 and an amendment to the registration (RA 02008A) was issued on October 4, 2002, which allowed the van der Meers to relocate the facilities to a different site on the same quarter section and also incorporate minor change to their barn design. On March 25, 2004, the Board requested comments on the NRCB information.

As of March 31, 2004, the appeal is outstanding.

03-158

Appellant(s) - Mr. Mike Richard, **Operator** - Devon ARL Corporation, **Location** - near Spirit River, **Type of Appeal** - Active

On March 10, 2004, the Board received a Notice of Appeal from Mr. Mike Richard with respect to Reclamation Certificate No. 00193712-00-00 issued to Devon ARL Corporation for the ARL Mirage 5-7-79-7 well, near Spirit River. By March 31, 2004, the Board was obtaining dates for a mediation meeting between the parties.

As of March 31, 2004, this appeal is outstanding.

Appendix B

PARTIES TO THE APPEAL

Approvals, Licences, Preliminary Certificates

- 03-001** Slave River Exploration Ltd and Midnight Oil and Gas Ltd./*Water Act* Licence No. 00192607-00-00 (Brock Smith)
- 03-002** Slave River Exploration Ltd and Midnight Oil and Gas Ltd./*Water Act* Licence No. 00192607-00-00 (Ernie Bartsch)
- 03-003** Slave River Exploration Ltd and Midnight Oil and Gas Ltd./*Water Act* Licence No. 00192607-00-00 (Allan Greber)
- 03-005** Slave River Exploration Ltd and Midnight Oil and Gas Ltd./*Water Act* Licence No. 00192607-00-00 (David Lowen)
- 03-006** Slave River Exploration Ltd and Midnight Oil and Gas Ltd./*Water Act* Licence No. 00192607-00-00 (Sid Hogg)
- 03-007** Nor-Chris Holdings Inc./*Water Act* Approval No. 00189558-00-00 (Nancy Hohnstein)
- 03-008** McCoy/*Water Act* Licence No. 00196275-00-00 (Clyde McCoy on behalf of Doug McCoy)
- 03-009** Town of Valleyview/*Water Act* Licence No. 00080224-00-00 (Town of Valleyview)
- 03-010** New Dale Hutterian Brethren/*Water Act* Approval No. 00136848-00-00 (Micheal Monner)
- 03-011** Alberta Transportation/*Water Act* Approval No. 00198269-00-00 (Allan Romeril, Administrator, County of Warner No. 5)
- 03-014** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Linda Covey)
- 03-015** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Elin H. Barlem)
- 03-016** Hal Willis /*Water Act* Approval No. 00193447-00-00 (J. Mark Barlem)
- 03-017** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Margaret Baycroft)
- 03-018** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Bill and Linda Biggart)
- 03-019** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Leo E. Carter)
- 03-020** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Davina Daly)
- 03-021** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Judy Hudson)
- 03-022** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Robert Lewis)
- 03-023** Hal Willis /*Water Act* Approval No. 00193447-00-00 (Ron Macdonald)

- 03-024 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Margaret Medak)
- 03-025 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Laurie A. Miller)
- 03-026 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Randy Miller)
- 03-027 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Len Plummer)
- 03-028 Hal Willis / *Water Act* Approval No. 00193447-00-00 (R. C. (Dick) Sifton)
- 03-029 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Karen Strong)
- 03-030 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Laurence Strong)
- 03-031 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Leah Wile)
- 03-032 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Laurie Zaleschuk)
- 03-033 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Dixie Ingram for Kevin Ingram)
- 03-034 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Robert J. Miller)
- 03-035 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Larry and Eleanor Brown)
- 03-036 Hal Willis / *Water Act* Approval No. 00193447-00-00 (Sydney and Myrtle Quartly)
- 03-037 Hal Willis / *Water Act* Approval No. 00193447-00-00 (William and Doreen Thomsen)
- 03-038 Hal Willis / *Water Act* Approval No. 00193447-00-00 (William Froling)
- 03-039 Town of Innisfail / *Water Act* Approval No. 00076694-00-00 (Bill and Linda Biggart)
- 03-040 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Linda Covey)
- 03-041 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Elin H. Barlem)
- 03-042 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (J. Mark Barlem)
- 03-043 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Margaret Baycroft)
- 03-044 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Bill and Linda Biggart)
- 03-045 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Leo E. Carter)
- 03-046 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Davina Daly)
- 03-047 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Judy Hudson)
- 03-048 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Robert Lewis)
- 03-049 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Ron Macdonald)
- 03-050 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Laurie A. Miller)
- 03-051 Town of Innisfail / *Water Act* Amending Approval No. 00076694-00-01 (Randy Miller)

- 03-052 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (R.C. (Dick) Sifton)
- 03-053 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Karen Strong)
- 03-054 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Laurence Strong)
- 03-055 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Leah Wile)
- 03-056 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Laurie Zaleschuk)
- 03-057 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Faye Carter)
- 03-058 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Ray Cerniuk)
- 03-059 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (John Chase)
- 03-060 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Richard Ellingson)
- 03-061 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (G. M. Eirikson)
- 03-062 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Norman Eirikson)
- 03-063 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Hendrina Halpin)
- 03-064 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Ralph A. Halpin)
- 03-065 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Kevin Jamieson)
- 03-066 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Adam Kline)
- 03-067 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Angus Macleod)
- 03-068 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Margaret Medak)
- 03-069 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Mike Peckham)
- 03-070 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Mark Roberts)
- 03-071 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (John Smith)
- 03-072 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Ed Tchir)
- 03-073 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Dixie and Kevin Ingram)
- 03-074 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Robert J. Miller)

- 03-075 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Larry and Eleanor Brown)
- 03-076 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Sydney Quartly)
- 03-077 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (William and Doreen Thomsen)
- 03-078 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Peter and Christa Lamboo)
- 03-079 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Claudia Desrochers)
- 03-080 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (William Froling)
- 03-081 Town of Innisfail/*Water Act* Amending Approval No. 00076694-00-01 (Len Plummer)
- 03-082 Hal Willis /*Water Act* Approval No. 00193447-00-00 (Jean Veldkamp and Howard Milligan)
- 03-083 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (John Dennehy)
- 03-084 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Sheila Thompson)
- 03-085 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Keith and Carol Quaife)
- 03-086 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Kelly Calkins)
- 03-087 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (M. Lois Bell)
- 03-088 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Kevin O'Neil)
- 03-089 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Vern Shoemaker)
- 03-090 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Pierrette Doohan)
- 03-091 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Rae Allen)
- 03-092 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (M. Smith)
- 03-093 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Hank Hendricks)
- 03-094 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Marvel Currie)
- 03-095 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Maurice Juchli)
- 03-096 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Jerry Hoshowski)
- 03-097 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Lori and Brent Mikkelsen)
- 03-098 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Darla and Jim Dragon)
- 03-099 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (G. Mattock)
- 03-100 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (D. Losie)
- 03-101 Gregg Properties Co. Ltd/*Water Act* Approval 00191814-00-00 (Hank Hendricks)

- 03-102 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Bob Tomlinson)
- 03-103 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Brian Vanstone)
- 03-104 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (H.J. Kowalchuk)
- 03-105 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (K and L Fenemor)
- 03-106 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Harley Hohnson and Lynne Staples)
- 03-107 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Andy and Darlene Davidson)
- 03-108 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Jack Lozerson)
- 03-109 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Carol Allen)
- 03-110 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (J and M Helps)
- 03-111 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Daryl Allen)
- 03-112 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Ed and R Karpluk)
- 03-113 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Lillian Karpoff)
- 03-114 Gregg Properties Co. Ltd./*Water Act* Approval 00191814-00-00 (Harvey Tober)
- 03-116 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Jim Romane, Chairman, Mountain View Regional Water Services Commission)
- 03-118 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Gerald Oxtoby)
- 03-119 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (City of Red Deer)
- 03-120 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Terry Little)
- 03-121 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Kelly Smith, Palkot Farms Ltd.)
- 03-122 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Don Bester on behalf of the Butte Action Committee)
- 03-123 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Mike Gallie)
- 03-126 Robert A. Berrien and 766364 Alberta Ltd./*Water Act* Licence 989
- 03-127 Word of Life Tabernacle/*Water Act* Approval No. 00198139-00-00 (Gordon Volume)
- 03-129 Word of Life Tabernacle/*Water Act* Approval No. 00198139-00-00 (Gerry and Janet Whiteside)
- 03-131 Word of Life Tabernacle/*Water Act* Approval No. 00198139-00-00 (Barbara Elaine Petrie)
- 03-133 Word of Life Tabernacle/*Water Act* Approval No. 00198139-00-00 (Barbara Fehr)
- 03-136 Word of Life Tabernacle/*Water Act* Approval No. 00198139-00-00 (Linda Vongrad)
- 03-138 Capstone Energy Ltd./*Water Act* Preliminary Certificate 00198509-00-00 (Dorene Annette Rew)

- 03-145 St. Mary River Irrigation District/*Water Act* Licence Amendment No. 00044590-00-01 (Klaus Jericho, President, Southern Alberta Environment Group)
- 03-149 Larry and Terri Cameron o/a Wolf Dance Lodge/*Water Act* Licence 00196055-00-00 (Dale Clearwater)
- 03-150 Cardinal River Coals Ltd./*Water Act* Approval No. 00188589-00-00 (Ben Gadd)
- 03-152 Cardinal River Coals Ltd./EPEA Amending Approval No. 46972-00-01 (Ben Gadd)
- 03-153 Mark and Susan Weiss/*Water Act* Licence No. 00192172-00-00 (Myles and Lynda McLellan)
- 03-154 St. Mary's River Irrigation District/*Water Act* Licence Amendment No. 00044590-00-01 (Cheryl Bradley)
- 03-155 Ralph Biehn/*Water Act* Approval 00197594-00-00 (Ron and Irene Hill)
- 03-157 Albert and Sjoukje van der Meer/*Water Act* Licence 00204431-00-00 (Wayne and Wendy von Hollen)

Environmental Protection and Enhancement Act Approvals

- 03-004 Cardinal River Coals, Cheviot and Luscar Mine Private Haulroad/Application for Approvals (Ben Gadd)
- 03-013 Bar Kay Cee Club/EPEA Approval No. 186939-00-00 (Mel Gray)
- 03-117 EPCOR Generation Inc. & EPCOR Power Development Corporation/EPEA Amending Approval 773-01-06 (Dennis and Barbara Hebner)
- 03-128 Word of Life Tabernacle/EPEA Approval No. 198159-00-00 (Gordon Volume)
- 03-130 Word of Life Tabernacle/EPEA Approval No. 198159-00-00 (Gerry and Janet Whiteside)
- 03-134 Word of Life Tabernacle/EPEA Approval No. 198159-00-00 (Barbara Fehr)
- 03-135 Word of Life Tabernacle/EPEA Approval No. 198159-00-00 (David E. Drader)
- 03-137 Word of Life Tabernacle/EPEA Approval No. 198159-00-00 (Linda Vongrad)
- 03-132 Word of Life Tabernacle/EPEA Approval No. 198159-00-00 (Barbara Elaine Petrie)
- 03-139 Hunt Power Company of Canada Inc./EPEA Approval No. 192173-00-00 (Brent Kelland, Susan Scott, Colleen Praud, Jill Kelland)
- 03-144 Castle Mountain Resort Inc./EPEA Amending Approval No. 18777-01-01 (Castle-Crown Wilderness Coalition)
- 03-147 Conoco Phillips Canada Resources Corp./EPEA Approval No. 48263-00-00 (Wood Buffalo First Nation)
- 03-148 OPTI Canada Inc./Nexen Canada Ltd./EPEA Approval No. 137467-00-00 (Wood Buffalo First Nation)
- 03-151 Cardinal River Coals Ltd./EPEA Amending Approval No. 11767-01-02 (Ben Gadd)

- 03-156** AES Calgary ULC/EPEA Amending Approval No. 00149007-00-01 (Gleneagles Investments Ltd. and Louson Investments Ltd)

Reclamation Certificates

- 03-012** Anadarko Canada Corporation/Reclamation Certificate No. 00183533-00-00 (Brian Navrot)
- 03-140** Calpine Canada Resources and Envirsoil Land Management/Reclamation Certificate Application for the Bowtex et al Sibbald well, SE Sec. 4, TWP. 28, Rge. 03, W4M
- 03-141** Navigo Energy Inc./Reclamation Certificate No. NE1-03-00169 (Gwen Veer)
- 03-142** Murphy Oil Company Ltd./Reclamation Certificate No. 00186627-00-00 (Charlie & Pat Johnson)
- 03-143** EnCana Corporation and Sharp Environmental (2000) Ltd./Application for Reclamation Certificate for the AEC Normandville 8-15-80-23 well
- 03-158** Devon ARL Corporation/Reclamation Certificate No. 00193712-00-00 (Mike Richard)

Water Act Enforcement Actions

- 03-146** Marc and Roch Bremont/*Water Act* Enforcement Order No. WA-EO-2003/01-NR (Marc and Roch Bremont)

Environmental Protection and Enhancement Act Enforcement Actions

- 03-115** RD Flush Systems & Jacob Martens/EPEA Enforcement Order EO-2003/03-CR
- 03-124** Imperial Oil Limited and Devon Estates Limited/EPEA Environmental Protection Order No. EPO-2003/02-SR
- 03-125** Imperial Oil Limited and Devon Estates Limited/EPEA Environmental Protection Order No. EPO-2003/03-SR

Appendix C

P R E S E N T A T I O N S

April 1, 2003

Gilbert Van Nes
(General Counsel)

University of Alberta, Law School

- The Environmental Appeal Board and Mediation

June 2, 2003

Gilbert Van Nes
(General Counsel)

Canadian Council of Administrative Tribunals (CCAT)

- Changing Roles of Legal Advisors to Tribunals

Gatineau, Quebec

August 8, 2003

Gilbert Van Nes
(General Counsel)

Japanese Exchange Students - U of A

Board Office

September 8, 2003

Gilbert Van Nes
(General Counsel)

Japanese Exchange Students - U of A

Board Office

September 29, 2003

Gilbert Van Nes
(General Counsel)

MBA Program, University of Alberta

- Natural Resources and Energy and the EAB

Edmonton

October 27, 2003

Marian Fluker
(Senior Research Officer)

MBA Program, University of Alberta

- the Environmental Appeal Board and CEAA

Edmonton

October 29, 2003

Gilbert Van Nes
(General Counsel)

University of Calgary, Environmental Law

- The Environmental Appeal Board

Calgary

November 13, 2003

William A. Tilleman
(Chairman) and
Gilbert Van Nes
(General Counsel)

Workers' Compensation Appeals Commission
- The Environmental Appeal Board & ADR/Mediation
Edmonton

January 20, 2004

Gilbert Van Nes
(General Counsel)

Alberta Environment's Presentation to Treaty 7
- The Environmental Appeal Board
Calgary

February 11, 2004

Gilbert Van Nes
(Board Counsel) and
Marian Fluker
(Senior Research Officer)

University of Alberta, Renewable Resources
Experience of the Environmental Appeals Board
(Role Play Scenarios)
Edmonton

March 23, 2004

Gilbert Van Nes
(General Counsel)

University of Alberta, Law Faculty
- ADR and the Environmental Appeal Board
Edmonton